

# **EXHIBIT A**

**NBA 2K**  
**Video Game Survey**  
**Report of E. Deborah Jay, Ph.D.**  
**May 2021**

*(Hayden v. 2K Games, Inc. and  
Take-Two Interactive Software)*

**JAY**  

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**SURVEY**  

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## Report of E. Deborah Jay, Ph.D.

### I. Introduction and Summary

I am a principal and founder of Jay Survey Strategies LLC, a California research firm specializing in marketing and public opinion surveys. Jay Survey Strategies was retained on behalf of 2K Games, Inc. and Take-Two Interactive Software, Inc. to conduct a survey with a nationwide representative sample of individuals who had bought a relevant NBA 2K video game (2K16, 2K17, 2K18, 2K19, 2K20 or 2K Mobile).<sup>1</sup> The purpose of the NBA 2K Survey was to determine the reasons for buying an NBA 2K video game and whether the tattoos on LeBron James, Danny Green, or Tristan Thompson were a reason why consumers bought an NBA 2K video game.

The NBA 2K Survey was performed according to accepted survey standards and in conformity with the guidelines discussed in the *Federal Manual for Complex Litigation*, 4th Ed. §11.493 (2004) and the *Reference Guide on Survey Research, Federal Reference Manual on Scientific Evidence*, 3rd Ed. (2011). As described in more detail in this report, none of the 520 individuals interviewed for the NBA 2K Survey said the tattoos on LeBron James, Danny Green, or Tristan Thompson were one of the reasons why they bought an NBA 2K video game.

The findings from the NBA 2K Survey are consistent with the findings from a survey that I conducted in 2018 that asked the same questions and was conducted with a nationwide representative sample of 507 individuals who had bought one or more NBA 2K video games

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<sup>1</sup> Jay Survey Strategies is performing this study on a time and materials basis. Because work in connection with this project is ongoing, I do not yet know the total project costs. The hourly rate that Jay Survey Strategies is charging for my time on this project in 2021 is \$650. Jay Survey Strategies' compensation is not dependent on the outcome of any dispute. Appendix A includes a list of cases in which I have testified in deposition and/or at trial during the past four years, and Appendix B includes my resume and a list of publications and presentations I have authored (or coauthored) during the past 10 years. The materials I considered in forming my opinions are described in Appendix C.

between 2013 and 2018 (that is, a 2K14, 2K15, 2K16, 2K17, or 2K18 video game).<sup>2</sup> None of the 1,027 individuals interviewed for the 2018 survey or NBA 2K survey said the tattoos on LeBron James, Danny Green, or Tristan Thompson were one of the reasons why they bought an NBA 2K video game.<sup>3</sup>

## **A. Summary of Methodology**

The NBA 2K Survey was conducted between October 8 and October 29, 2019. Jay Survey Strategies developed a questionnaire for the survey to be completed online by a nationwide representative sample of individuals age 16 to 55. Under my design, direction and supervision, YouGov, a full-service marketing research firm, selected the sample and collected the data for the NBA 2K Survey using its online panel which consists of approximately two million individuals who are representative of all persons age 16 and older in the United States.<sup>4</sup> Each person who was randomly selected from the YouGov panel and invited to participate in the NBA 2K Survey was provided with a unique link to the survey, so that no person could participate in the survey more than once.

### **Eligibility Criteria**

To be eligible for the NBA 2K Survey, individuals age 16 to 55 had to have bought one of the following NBA 2K video games in the past 5 years: 2K16, 2K17, 2K18, 2K19, 2K20 or 2K

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- 2 The survey that I conducted in 2018 was in connection with a different matter. A report summarizing the methods and findings of the 2018 survey is in Appendix I.
  - 3 In other words, there was no link between the sales of the following eight NBA 2K video games (purchased between 2013 and 2019) and the tattoos on LeBron James, Danny Green, or Tristan Thompson: 2K14, 2K15, 2K16, 2K17, 2K18, 2K19, 2K20, and 2K Mobile. I understand that the tattoos on LeBron James, Danny Green, and Tristan Thompson are not more prominent in the NBA 2K21 video game than in the earlier NBA 2K video games. In my opinion, the surveys I conducted also support the conclusion that there is no link between the sales of the NBA 2K21 video game and the tattoos on LeBron James, Danny Green, or Tristan Thompson.
  - 4 Screenshots showing how the questionnaire appeared on the computer are in Appendix D, and a detailed description of the methods used to conduct the NBA 2K Survey is in Appendix E. Background information on YouGov's online panel is in Appendix F.

Mobile.<sup>5</sup> Qualifying survey respondents had to agree to answer all survey questions on their own, without asking anybody else for help or referring to reference materials or the Internet.<sup>6</sup> They also could not live in a household in which someone worked for a video game company or store, or for an advertising agency or marketing research firm. This is because these survey respondents might have special knowledge about the subject of the survey – namely, reasons for buying NBA 2K video games. In all, 8,523 randomly-selected individuals age 16 to 55 were screened for eligibility and, of these, 520 (6%) qualified for the NBA 2K Survey.<sup>7</sup>

### Questions for Qualified Survey Respondents

The 520 survey respondents who qualified for the NBA 2K Survey were asked up to four sets of questions, which included open-ended questions (questions that required survey respondents to answer in their own words) and closed-ended questions (questions that required survey respondents to select from a set of response categories).<sup>8</sup> The first set of questions asked survey respondents to describe in their own words the main reasons why they bought an NBA 2K video game, and their other reasons, if any, for buying an NBA 2K video game.

The second set of questions asked survey respondents about 20 possible reasons for buying an NBA 2K video game: a) I or a family member likes basketball, b) the ease of playing the game,

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5 Individuals age 16 to 55 were surveyed because I understand that most of the relevant NBA 2K video games were bought by persons in this age group.

6 At the beginning of the survey, respondents were asked a CAPTCHA question (survey respondents had to correctly identify the order of four colors in an array). This ensured that the survey respondent was a human (and not a machine) and was paying attention.

7 According to the *Reference Guide on Survey Research, Federal Reference Manual on Scientific Evidence*, 3rd Ed. (2011), probability sample confidence intervals provide a rough indicator of the value of estimates based on Internet surveys, such as this one. The maximum sampling error for analyses based on a probability sample of 520 survey respondents is +/- 4 percentage points at the 95% confidence level. Note, the maximum sampling error is based on percentages in the middle of the sampling distribution (percentages around 50%). Percentages at either end of the sampling distribution (for example, percentages less than 10% or greater than 90%) will have a smaller margin of error.

8 Before these questions were asked, the survey informed respondents that we were only interested in their opinions and beliefs and instructed survey respondents to indicate whether they did not know the answer to a question or have an opinion or belief.

c) the speed of gameplay, d) the overall quality of the graphics, e) the soundtrack, f) the camera angles during gameplay, g) the number of options, h) the inclusion of current NBA teams, i) the inclusion of other teams besides current NBA teams (such as the classic, historic or national teams), j) the crowd animations, k) the pre-game, half-time, and/or post-game shows, l) the different arenas, m) the ability to build your own team or create an expansion team, n) the ability to customize a player's game style, tendencies or attributes, o) the ability to maintain a trading card collection, p) the ability to play tournament-style competitions against other players, q) the ability to collect or purchase cards that unlock players and other items, r) the depiction of the NBA players' movements, s) the depiction of the NBA players' face, body or other aspects of their appearance, and t) the price/value of the game.<sup>9</sup> Survey respondents were asked to indicate which of these items, if any, were a reason why they bought an NBA 2K video game. Survey respondents also were asked to indicate which item in the list was their most important reason and which item was their next most important reason for buying an NBA 2K video game.<sup>10</sup>

Survey respondents who said the depiction of the NBA players' face, body or other aspects of their appearance was a reason for buying an NBA 2K video game were asked a third set of questions. These survey respondents were asked whether the depiction of the appearance of particular NBA players was a reason for buying an NBA 2K video game, and, if so, which NBA players' depiction was a reason for buying an NBA 2K video game. The purpose of the third set of questions was to determine whether the depiction of the appearance of LeBron James, Danny Green, or Tristan Thompson was a reason for buying an NBA 2K video game.

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9 The list also included a fictitious feature, the "XTJ feature," which was created by randomly generating three letters. Survey respondents were asked whether they bought an NBA 2K video game because of the XTJ feature (even though NBA 2K video games do not have this feature). The purpose of the fictitious feature was to measure the amount of guessing or "noise" in the NBA 2K Survey. A question about a fictitious feature or "control question" is an accepted method for measuring the amount of guessing or "noise" in a survey.

10 The order in which the items were listed, including the fictitious feature, was randomized across survey respondents. The randomization of the order of the items minimized the potential for the order of the items to influence the survey responses (known as "order effects" or "order bias").

Survey respondents who did not say "Don't know" when asked which NBA players' depiction was a reason why they bought an NBA 2K video game, were asked a fourth set of questions. These survey respondents were asked whether there were particular features or aspects of the appearance of the NBA players they identified that were important to depict, and, if so, what features or aspects of these NBA players' appearance were important to depict. The purpose of the fourth set of questions was to determine whether the tattoos on LeBron James, Danny Green, or Tristan Thompson were a reason why survey respondents bought an NBA 2K video game.

The NBA 2K Survey was double-blind; neither the persons administering the survey nor the survey respondents were told: a) the names of the sponsors of the survey, b) that the survey was intended to determine the reasons for buying an NBA 2K video game and whether the tattoos on LeBron James, Danny Green, or Tristan Thompson were a reason for buying an NBA 2K video game, or c) that the survey was being conducted in connection with litigation. The NBA 2K Survey was performed according to accepted survey standards and in conformity with the guidelines discussed in the *Federal Manual for Complex Litigation*, 4th Ed. §11.493 (2004) and the *Reference Guide on Survey Research, Federal Reference Manual on Scientific Evidence*, 3rd Ed. (2011).<sup>11</sup>

## **B. Summary of Findings and Conclusions**

As described in more detail in the discussion that follows, the NBA 2K Survey found:

### **B1. Reasons for Buying an NBA 2K Video Game (Unaided Recall)**

1. When asked to describe in their own words their main reasons and their other reasons for buying an NBA 2K video game, survey respondents were most apt to volunteer that they bought an NBA 2K video game for the following reasons: they or a family member likes basketball, sports and/or sports video games (32%), the

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<sup>11</sup> The survey population was properly defined as individuals age 16 to 55 who had bought an NBA 2K16, 2K17, 2K18, 2K19, 2K20 or 2K Mobile video game in the past 5 years, and the sample selected was representative of that population. The questions asked in the NBA 2K Survey were clear and not leading. The data gathered for the NBA 2K Survey were accurately reported, and the data were analyzed in accordance with accepted statistical principles. The NBA 2K Survey was conducted, under my direction, by survey research professionals following proper survey procedures, and the entire process was conducted so as to ensure objectivity.



game is fun, entertaining or they like the gameplay (31%), or they bought it for a family member, as a gift, or to play with a family member (20%).

2. When asked to describe their main reasons and their other reasons for buying an NBA 2K video game, none of the survey respondents even mentioned LeBron James, Danny Green, Tristan Thompson, or tattoos.

## **B2. Reasons for Buying an NBA 2K Video Game (Aided Recall)**

3. When given a list of possible reasons for buying an NBA 2K video game, most (82%) of the survey respondents selected more than one reason. The average number of reasons that survey respondents selected was 6 and the median was 4.
4. In response to the closed-ended questions, survey respondents were most apt to indicate that they bought an NBA 2K video game because of the following reasons: they or a family member likes basketball (54%), the overall quality of the graphics (39%), and the inclusion of current NBA teams (37%).
5. Approximately 27% of the survey respondents indicated that the depiction of the NBA players' face, body or other aspects of their appearance was a reason for buying an NBA 2K video game. Yet, none of these survey respondents said the depiction of the NBA players' appearance was the only reason why they bought an NBA 2K video game or that it was important to depict the tattoos on LeBron James, Danny Green, or Tristan Thompson.<sup>12</sup>

## **B3. Most Important Reason (Aided Recall)**

6. When given a list of reasons to choose from, the largest percentage of survey respondents (32%) indicated that their most important reason for buying an NBA 2K video game was that they or a family member likes basketball.
7. Only 2% of the survey respondents indicated that their most important reason for buying an NBA 2K video game was the depiction of the NBA players' face, body, or other aspects of their appearance, and none of these survey respondents said it was important to depict the tattoos on LeBron James, Danny Green, or Tristan Thompson.

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12 When given a list, 9% of the survey respondents indicated that the fictitious XTJ feature was a reason for buying an NBA 2K video game. This means that approximately 9% of the survey respondents were guessing when they indicated an item was a reason for buying an NBA 2K video game. To eliminate guessing, the percentage who selected each item should be reduced by 9 percentage points. In other words, 18% of the survey respondents (27% minus 9%) said the depiction of the NBA players' face, body or other aspects of their appearance was a reason for buying an NBA 2K video game after accounting for guessing and other sources of "noise."

**B4. Top Two Reasons for Buying an NBA 2K Video Game (Aided Recall)**

8. In response to the closed-ended questions, survey respondents also were most likely to indicate that their fondness for basketball was one of their top two reasons for buying an NBA 2K video game. Approximately 39% of the survey respondents said their most important reason or their next most important reason for buying an NBA 2K video game was that they or a family member likes basketball.
9. Only 7% of the survey respondents said their most important reason or their next most important reason for buying an NBA 2K video game was the depiction of the NBA players' face, body, or other aspects of their appearance, and none of these survey respondents said it was important to depict the tattoos on LeBron James, Danny Green, or Tristan Thompson.<sup>13</sup>

**B5. Whether the Depiction of the Appearance of Particular NBA Players Was a Reason for Buying an NBA 2K Video Game**

10. 18% of the survey respondents said the depiction of the appearance of particular NBA players was one of the reasons why they bought an NBA 2K video game.
11. A negligible percentage (5%) of the survey respondents said the depiction of LeBron James' appearance was one of the reasons why they bought an NBA 2K video game, and none of these survey respondents said it was important to depict the tattoos on LeBron James.
12. None of the survey respondents said the depiction of the appearance of either Danny Green or Tristan Thompson was one of the reasons why they bought an NBA 2K video game.

**B6. Whether It Was Important to Depict Particular Features or Aspects of Certain NBA Players' Appearance**

13. Only 7% of the survey respondents said it was important to depict particular features or aspects of certain NBA players' appearance.

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<sup>13</sup> Only 1% of the survey respondents indicated that the fictitious XTJ feature was one of their top two reasons for buying an NBA 2K video game. This means that a negligible number of survey respondents guessed when asked for their most important reason and their next most important reason for buying an NBA 2K video game.

14. Only one person (less than 1% of all survey respondents) said it was important to depict the tattoos on the NBA players, and this person did not even mention LeBron James, Danny Green, or Tristan Thompson.<sup>14</sup>

15. None of the survey respondents said it was important to depict the tattoos on LeBron James, Danny Green, or Tristan Thompson.

Based on the overall design and execution of the NBA 2K Survey, it provides representative and reliable information regarding individuals age 16 to 55 who bought a relevant NBA 2K video game. None of the 520 individuals interviewed for the NBA 2K Survey said the tattoos on LeBron James, Danny Green, or Tristan Thompson were one of the reasons why they bought an NBA 2K video game. In my opinion, the NBA 2K Survey strongly supports the conclusions that a) consumers bought the relevant NBA 2K video games for numerous reasons, principally that they like basketball, b) no consumers bought the relevant NBA 2K video games for the tattoos on LeBron James, Danny Green, or Tristan Thompson, let alone the tattoos at issue in this case, and c) there is no link between the sales of the NBA 2K video games and their depiction of the tattoos on LeBron James, Danny Green, or Tristan Thompson.

The findings from the NBA 2K Survey are consistent with the findings from a survey that I conducted in 2018 that asked the same questions and was conducted with a nationwide representative sample of 507 individuals who had bought one or more NBA 2K video games between 2013 and 2018 (that is, a 2K14, 2K15, 2K16, 2K17, or 2K18 video game). None of the 1,027 individuals interviewed for the 2018 survey or NBA 2K Survey said the tattoos on LeBron James, Danny Green, or Tristan Thompson were one of the reasons why they bought an NBA 2K video game.

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14 When asked to describe his main reasons and his other reasons for buying an NBA 2K video game at the beginning of the survey, this survey respondent did not mention tattoos (or even the depiction of the appearance of any of the players); he only mentioned tattoos at the end of the survey when prompted to identify what features or aspects of the appearance of particular NBA players were important to depict.

The findings of the NBA 2K Survey and my conclusions are described in more detail in the remainder of this report, which is based on information that I have been provided and analyses that I have performed thus far. I understand that I may be provided with additional information or asked to perform further analyses. If so, this report may be amended or revised. In connection with my anticipated trial testimony in this action I may use as exhibits various documents produced in this litigation that refer to or relate to the matters discussed in this report. In addition, I may create or assist in the creation of certain demonstrative exhibits to assist me in testimony. I have not yet selected or created such exhibits.

## **II. Credentials**

I am a principal and founder of Jay Survey Strategies LLC, a California research firm that specializes in providing survey design, sampling, data collection and statistical analysis. I have more than 40 years of experience conducting large-scale surveys of all types (*e.g.*, mail, Internet, telephone, and in-person), including surveys for public agencies, nonprofit organizations, private companies and law firms. During my career, I have designed and directed well over 800 surveys and more than 400 surveys in legal cases. I have testified on behalf of plaintiffs and defendants in proceedings before state and federal courts and other tribunals (such as the U.S. Patent and Trademark Office and the U.S. International Trade Commission), and routinely have been qualified by courts as an expert in survey methodology. I also have lectured on litigation surveys and survey methods before bar associations, trade associations, and business and law schools, and been on the faculties of numerous continuing legal education programs.

I am past chair of the Council of American Survey Research Organizations (CASRO), a not-for-profit trade association representing more than one hundred commercial survey research companies in the United States, and I chaired the Standards Committee for the American Association for Public Opinion Research (AAPOR), a professional society of over 2,000

individuals engaged in opinion research, market research, and social research at public agencies, nonprofit organizations and private companies.<sup>15</sup> I have served on the editorial board of several journals, and my publications include articles in the *Trademark Reporter*, the *Encyclopedia of Survey Research Methods*, *Polling America: An Encyclopedia of Public Opinion*, and *Trademark and Deceptive Advertising Surveys: Law, Science and Design*.

I hold a bachelor's degree in psychology and political science from the University of California at Los Angeles (magna cum laude) and a master's degree and doctorate in political science from the University of California at Berkeley. Before founding Jay Survey Strategies, I served for 23 years as President and CEO of Field Research Corporation, the highly-respected marketing and opinion research firm started by Mervin Field in 1945. When I was President and CEO of Field Research, we conducted over 100,000 interviews per year with representative samples of the public, consumers, corporate executives, and other populations.<sup>16</sup> I also have been a program director at SRI International (formerly Stanford Research Institute), a manager with KPMG Peat Marwick in San Francisco, and a research associate at the Survey Research Center at the University of California at Berkeley.

### **III. Findings**

This section describes the findings from the NBA 2K Survey. The verbatim responses to the open-ended questions are in Appendix G and Appendix H.

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15 CASRO merged with the Marketing Research Association (the MRA) in January 2017 to form the Insights Association.

16 Field Research also conducted the nationally quoted Field Poll, which tracked voter preferences in all major statewide elections in California. During my tenure, the average deviation between The Field Poll's final pre-election poll in California and the actual percentage vote in California for the winning candidate in elections for President, Governor and U.S. Senate was approximately two percentage points, and the Field Poll received an A+ rating for accuracy from the highly-respected statistician Nate Silver on his [www.fivethirtyeight.com](http://www.fivethirtyeight.com) website.

### A. Which NBA 2K Video Games Survey Respondents Bought

As shown in Table 1, 14% or more of the survey respondents had bought each of the relevant NBA 2K video games, and the largest percentages of survey respondents had bought either the NBA 2K18 video game (56%) or the NBA 2K19 video game (60%).

Table 1 Which NBA 2K Video Games Survey Respondents Had Bought*	
	Percent of Survey Respondents
	(n = 520)
NBA 2K16	43%
NBA 2K17	46
NBA 2K18	56
NBA 2K19	60
NBA 2K20	34
NBA 2K Mobile	14

\* Based on Question S8. Note, percentages add to more than 100% because some survey respondents bought more than one NBA 2K video game.

The majority (65%) of the survey respondents had bought more than one of the six relevant NBA 2K video games, and 42% of the survey respondents had bought three or more of the relevant NBA 2K video games. (See Table 2.).

Table 2 How Many of the Relevant NBA 2K Video Games Survey Respondents Had Bought*	
	Percent of Survey Respondents
	(n = 520)
One	35%
Two	23
Three	16
Four	11
Five	10
Six	5

\* Based on Question S8.

## B. Reasons for Buying an NBA 2K Video Game (Unaided Recall)

At the beginning of the survey, qualifying respondents were asked the following open-ended questions: "What were the main reasons why you bought an NBA 2K video game?" and "What were the other reasons, if any, why you bought an NBA 2K video game?" The answers to these questions are summarized in Table 3.<sup>17</sup>

<b>Table 3</b> <b>Main Reasons and Other Reasons Survey Respondents</b> <b>Volunteered for Buying an NBA 2K Video Game*</b> <b>(Unaided Recall)</b>	
	<b>Percent of Survey Respondents</b>
	<i>(n = 520)</i>
I or my family likes basketball, sports or sports video games	32%
The game is fun or entertaining (like the gameplay)	31
Bought it for a family member, as a gift, or to play with a family member	20
Am a fan of NBA 2K video games (liked other NBA 2K video games, the modes or options, it's the best or latest game)	17
It's popular, friends recommended it, or wanted to play with friends /others	15
The graphics or animation	9
The price or value (was bundled with other games or products)	7
Like the roster, the teams or a specific team, has the newest or my favorite NBA players	6
The realism of the game or players	2
Mentioned LeBron James, Danny Green, or Tristan Thompson	0
Mentioned tattoos	0
Misc. other comments only/None of the above	1
Don't know	12

\* Based on Questions A1 and A2. Note, percentages add to more than 100% because some survey respondents volunteered more than one reason for buying an NBA 2K video game.

As shown in Table 3, survey respondents were most likely to volunteer that their main reasons or their other reasons for buying an NBA 2K video game were the following: they or a family member likes basketball, sports and/or sports video games (32%), the game is fun, entertaining, or they like the gameplay (31%), or they bought it for a family member, as a gift, or

<sup>17</sup> Survey respondents' verbatim responses to these questions are in Appendix G.

to play with a family member (20%). When asked to describe their main reasons and their other reasons for buying an NBA 2K video game, none of the survey respondents even mentioned LeBron James, Danny Green, Tristan Thompson, or tattoos.

### **C. Reasons for Buying an NBA 2K Video Game (Aided Recall)**

The next set of questions asked survey respondents about 20 possible reasons for buying an NBA 2K video game: a) I or a family member likes basketball, b) the ease of playing the game, c) the speed of gameplay, d) the overall quality of the graphics, e) the soundtrack, f) the camera angles during gameplay, g) the number of options, h) the inclusion of current NBA teams, i) the inclusion of other teams besides current NBA teams (such as the classic, historic or national teams), j) the crowd animations, k) the pre-game, half-time, and/or post-game shows, l) the different arenas, m) the ability to build your own team or create an expansion team, n) the ability to customize a player's game style, tendencies or attributes, o) the ability to maintain a trading card collection, p) the ability to play tournament-style competitions against other players, q) the ability to collect or purchase cards that unlock players and other items, r) the depiction of the NBA players' movements, s) the depiction of the NBA players' face, body or other aspects of their appearance, and t) the price/value of the game. Survey respondents were asked to indicate which of these items, if any, were a reason why they bought an NBA 2K video game.

The list of possible reasons also included a fictitious feature, "the XTJ feature," which was created by randomly generating letters. Survey respondents were asked whether they bought an NBA 2K video game because of the XTJ feature (even though NBA 2K video games do not have this feature). The purpose of the fictitious feature was to measure the amount of guessing or "noise" in the NBA 2K Survey. The order in which the items were listed, including the fictitious feature, was randomized across survey respondents.



As shown in Table 4, when given a list of possible reasons for buying an NBA 2K video game, most (82%) of the survey respondents selected more than one reason, and more than half (58%) selected four or more reasons.

<b>Table 4</b> <b>Number of Items Survey Respondents Selected</b> <b>When Given a List of Possible Reasons for Buying an NBA 2K Video Game*</b> <b>(Aided Recall)</b>	
	<b>Percent of Survey Respondents</b>
	<i>(n = 520)</i>
One	12%
Two or three	24
Four or five	21
Six to ten	23
More than ten	14
<i>Not Applicable – Did not know the reasons why they bought an NBA 2K video game or did not select any of the reasons listed</i>	6

\* Based on Question B1.

The average (mean) number of reasons that survey respondents selected was approximately 6, and the median was 4. (See Table 5.)

<b>Table 5</b> <b>Mean and Median Number of Items Survey Respondents Selected</b> <b>When Given a List of Possible Reasons for Buying an NBA 2K Video Game*</b> <b>(Aided Recall)</b>	
	<b>Percent of Survey Respondents</b>
	<i>(n = 490)</i>
Mean (average)	6
Median	4

\* Based on Question B1. Note, 30 survey respondents did not check any reason or said "Don't know" in Question B1. This table includes survey respondents who selected one or more reasons.

As shown in Table 6, when given a list, survey respondents were most apt to indicate that they bought an NBA 2K video game because they or a family member likes basketball (54%). Approximately 27% of the survey respondents said they bought an NBA 2K video game because of the depiction of the NBA players' face, body, or other aspects of their appearance. Yet, none of

these survey respondents said the depiction of the NBA players' face, body, or other aspects of their appearance was the only reason why they bought an NBA 2K video game or that it was important to depict the tattoos on LeBron James, Danny Green, or Tristan Thompson.

<b>Table 6</b> <b>Items Survey Respondents Selected When Given a List</b> <b>of Possible Reasons for Buying an NBA 2K Video Game*</b> <b>(Aided Recall)</b>	
	<b>Percent of Survey</b> <b>Respondents</b>  <i>(n = 520)</i>
I or a family member likes basketball	54%
The overall quality of the graphics	39
The inclusion of current NBA teams	37
The ease of playing the game	35
The ability to customize a player's game style, tendencies, or attributes	33
The ability to build your own team or create an expansion team	31
The price/value	31
The depiction of the NBA players' movements	29
<b>The depiction of the NBA players' face, body, or other aspects of their appearance</b>	<b>27</b>
The speed of gameplay	27
The inclusion of other teams besides current NBA teams (such as the classic, historic or national teams)	27
The number of options	26
The ability to play tournament-style competitions against other players	23
The different arenas	21
The soundtrack	21
The camera angles during gameplay	19
The ability to collect or purchase cards that unlock players and other items	16
The crowd animations	14
The pre-game, half-time, and/or post-game shows	14
The ability to maintain a trading card collection	13
The XTJ feature	9
None of the above	4
Don't know	2

\* Based on Question B1. Note, percentages add to more than 100% because some survey respondents selected more than one reason for buying an NBA 2K video game in Question B1.

Approximately 9% of the survey respondents indicated that the fictitious XTJ feature was a reason for buying an NBA 2K video game. This means that approximately 9% of the survey respondents were guessing when they checked an item. To eliminate guessing, we subtracted nine percentage points from the percentage who checked each item. (See Table 7.) For example, 18% of the survey respondents (27% minus 9%) indicated that the depiction of the NBA players' appearance was a reason for buying an NBA 2K video game after accounting for guessing.

<b>Table 7</b> <b>Items Survey Respondents Selected When Given a List of Possible Reasons</b> <b>for Buying an NBA 2K Video Game, After Accounting for Guessing*</b> <b>(Aided Recall)</b>	
	Percent of Survey Respondents
	(n = 520)
I or a family member likes basketball	45%
The overall quality of the graphics	30
The inclusion of current NBA teams	28
The ease of playing the game	26
The ability to customize a player's game style, tendencies, or attributes	24
The ability to build your own team or create an expansion team	22
The price/value	22
The depiction of the NBA players' movements	20
The depiction of the NBA players' face, body, or other aspects of their appearance	18
The speed of gameplay	18
The inclusion of other teams besides current NBA teams (such as the classic, historic or national teams)	18
The number of options	17
The ability to play tournament-style competitions against other players	14
The different arenas	12
The soundtrack	12
The camera angles during gameplay	10
The ability to collect or purchase cards that unlock players and other items	7
The crowd animations	5
The pre-game, half-time, and/or post-game shows	5
The ability to maintain a trading card collection	4

\* Based on Question B1. Note, percentages add to more than 100% because some survey respondents selected more than one reason for buying an NBA 2K video game in Question B1.

## D. Most Important Reason for Buying an NBA 2K Video Game (Aided Recall)

Next, survey respondents were asked to indicate which of the reasons listed was their most important reason for buying an NBA 2K video game. Their answers are shown in Table 8.

<b>Table 8</b> <b>Most Important Reason for Buying an NBA 2K Video Game*</b> <b>(Aided Recall)</b>	
	<b>Percent of Survey Respondents</b>
	<i>(n = 520)</i>
I or a family member likes basketball	32%
The overall quality of the graphics	10
The price/value	9
The ability to build your own team or create an expansion team	5
The ease of playing the game	5
The ability to customize a player's game style, tendencies, or attributes	5
The inclusion of current NBA teams	4
The inclusion of other teams besides current NBA teams (such as the classic, historic or national teams)	4
The ability to play tournament-style competitions against other players	3
The ability to collect or purchase cards that unlock players and other items	3
The depiction of the NBA players' movements	2
The depiction of the NBA players' face, body, or other aspects of their appearance	2
The speed of gameplay	2
The number of options	2
The camera angles during gameplay	2
The pre-game, half-time, and/or post-game shows	1
The ability to maintain a trading card collection	1
The soundtrack	1
The different arenas	<1
The crowd animations	<1
The XTJ feature	<1
Don't know	2
<i>Not applicable – Did <u>not</u> indicate that any of the above were a reason for buying an NBA 2K video game</i>	6

\* Based on Question B2. Note, if respondents gave only one reason in B1 for buying an NBA 2K video game, this reason was assigned to Question B2.

As shown in Table 8, the largest percentage of survey respondents (32%) indicated that their most important reason for buying an NBA 2K video game was that they or a family member likes basketball. A negligible percentage (2%) of the survey respondents indicated that their most important reason for buying an NBA 2K video game was the depiction of the NBA players' face, body or other aspects of their appearance, and none of these survey respondents said it was important to depict the tattoos on LeBron James, Danny Green, or Tristan Thompson.

#### **E. Top Two Reasons for Buying an NBA 2K Video Game (Aided Recall)**

Survey respondents also were asked to indicate which of the reasons listed was their second most important reason for buying an NBA 2K video game. As shown in Table 9, when given a list, survey respondents were most likely to indicate that their most important reason or their next most important reason for buying an NBA 2K video game was that they or a family member likes basketball (39%). The next most common responses were the overall quality of the graphics (17%) and price/value (15%), followed by the ease of playing the game and the ability to customize a player's game style, tendencies, or attributes (12% each). About one-in-ten survey respondents said the inclusion of current NBA players (11%) and the ability to build your own team or create an expansion team (10%) was one of their top two reasons for buying an NBA 2K video game. Fewer survey respondents (only 7%) said their most important reason or their next most important reason for buying an NBA 2K video game was the depiction of the NBA players' face, body or other aspects of their appearance. As discussed below, when these survey respondents were asked the follow-up questions, none said the tattoos on LeBron James, Danny Green, or Tristan Thompson were a reason why they bought an NBA 2K video game.

Only 1% of the survey respondents indicated that the fictitious XTJ feature was one of their top two reasons for buying an NBA 2K video game. This means that a negligible number of survey

respondents guessed when asked for their most important reason and their next most important reason for buying an NBA 2K video game.

<b>Table 9</b> <b>Top 2 Reasons for Buying an NBA 2K Video Game*</b> <b>(Aided Recall)</b>	
	Percent of Survey Respondents
	(n = 520)
I or a family member likes basketball	39%
The overall quality of the graphics	17
The price/value	15
The ease of playing the game	12
The ability to customize a player's game style, tendencies, or attributes	12
The inclusion of current NBA teams	11
The ability to build your own team or create an expansion team	10
The inclusion of other teams besides current NBA teams (such as the classic, historic or national teams)	8
<b>The depiction of the NBA players' face, body, or other aspects of their appearance</b>	<b>7</b>
The ability to play tournament-style competitions against other players	7
The speed of gameplay	6
The depiction of the NBA players' movements	6
The number of options	5
The ability to collect or purchase cards that unlock players and other items	5
The soundtrack	3
The camera angles during gameplay	3
The ability to maintain a trading card collection	3
The pre-game, half-time, and/or post-game shows	3
The different arenas	2
The XTJ feature	1
The crowd animations	<1
<i>Not applicable – Did <u>not</u> indicate that any of the above were a reason for buying an NBA 2K video game</i>	6

\* Based on Questions B2 and B3.

## **F. Whether the Depiction of the Appearance of Particular NBA Players Was a Reason for Buying an NBA 2K Video Game**

Survey respondents who said the depiction of the NBA players' face, body or other aspects of their appearance was a reason for buying an NBA 2K video game were asked the following

question: "Was the depiction of the appearance of any particular NBA player or players a reason why you bought an NBA 2K video game?" As shown in Table 10, 18% of the survey respondents said the depiction of the appearance of a particular NBA player was a reason for buying an NBA 2K video game.

<b>Table 10</b> <b>Whether the Depiction of the Appearance of Any Particular NBA Player</b> <b>Was a Reason for Buying an NBA 2K Video Game*</b>	
	Percent of Survey Respondents
	(n = 520)
Yes	18%
No	8
Don't know	1
Not applicable – Did <u>not</u> say the depiction of the NBA players' face, body, or other aspects of their appearance was a reason for buying an NBA 2K video game	73

\* Based on Question C1.

These survey respondents were asked the following question: "Which NBA player or players' depiction was a reason why you bought an NBA 2K video game?"<sup>18</sup> As shown in Table 11, only 5% of the survey respondents said the depiction of LeBron James was one of their reasons for buying an NBA 2K video game (and, as described below, in response to the follow-up questions none of these survey respondents said it was important to depict the tattoos on LeBron James).<sup>19</sup> None of the survey respondents said the depiction of Danny Green or Tristan Thompson was one of their reasons for buying an NBA 2K video game (or that it was important to depict the tattoos on Danny Green or Tristan Thompson).

<sup>18</sup> Survey respondents' verbatim responses to this question are in Appendix H.

<sup>19</sup> When asked to describe their main reasons and their other reasons for buying an NBA 2K video game at the beginning of the survey, none of these survey respondents even mentioned LeBron James. These survey respondents only mentioned LeBron James at the end of the survey when prompted to identify particular NBA players whose appearance was a reason why they bought an NBA 2K video game.

<b>Table 11</b> <b>Whether the Depiction of the Appearance of LeBron James, Danny Green, or Tristan Thompson Was a Reason for Buying an NBA 2K Video Game*</b>	
	Percent of Survey Respondents
	(n = 520)
Said the appearance of the following players was one of their reasons for buying an NBA 2K video game (NET):	5%
LeBron James	(5)
Danny Green	(0)
Tristan Thompson	(0)
Did <u>not</u> say the depiction of the appearance of LeBron James, Danny Green, or Tristan Thompson was one of their reasons for buying an NBA 2K video game	95%

\* Based on Question C2.

### **G. What Features or Aspects of Particular NBA Players' Appearance Were Important to Depict**

Survey respondents who did not say "Don't know" when asked which NBA players' depiction was a reason why they bought an NBA 2K video game were asked the following question: "In the NBA 2K video game(s) you bought, were there any particular features or aspects you thought were important to depict of these NBA players' appearance: [NBA PLAYERS THE RESPONDENT IDENTIFIED]?" As shown in Table 12, most survey respondents (88%) did not say the the appearance of any particular NBA player was a reason why they bought an NBA 2K video game or did not identify any NBA player whose appearance it was important to depict. Another 5% of the survey respondents said it was not important or they did not know whether it was important to depict particular features or aspects of certain NBA players' appearance.

Only 7% of the survey respondents said it was important to depict particular features or aspects of the appearance of the NBA players they identified. The 7% breaks down, as follows: none of the survey respondents said it was important to depict particular features or aspects of the appearance of Danny Green or Tristan Thompson; 3% said it was important to depict particular features or aspects of the appearance of LeBron James (but as described below, they did not say it



was important to depict the tattoos on LeBron James); and 4% said it was important to depict particular features or aspects of the appearance of other NBA players (*e.g.*, Kevin Durant, Michael Jordan, Charles Barkley) but did not mention LeBron James, Danny Green or Tristan Thompson.<sup>20</sup>

<b>Table 12</b> <b>Whether It Was Important to Depict Particular Features or Aspects of</b> <b>Certain NBA Players' Appearance*</b>	
	<b>Percent of Survey Respondents</b>  <i>(n = 520)</i>
Yes, it was important to depict particular features or aspects of certain NBA players' appearance <u>and</u> (NET):	7%
Mentioned LeBron James	(3)
Mentioned Danny Green or Tristan Thompson	(0)
Mentioned other NBA players ( <i>e.g.</i> , Kevin Durant, Michael Jordan, Charles Barkley), but did <u>not</u> mention LeBron James, Danny Green, or Tristan Thompson	(4)
No, it was <u>not</u> important to depict particular features or aspects of certain NBA players' appearance or said "Don't know" (NET):	5%
No, it was <u>not</u> important to depict particular features or aspects of certain NBA players' appearance	(4)
Don't know	(1)
Did <u>not</u> say the appearance of any particular NBA player was a reason why they bought an NBA 2K video game or did <u>not</u> identify any players whose appearance was important to depict (NET):	88%
Said "don't know" when asked which NBA player's or players' depiction was a reason why they bought an NBA 2K video game	(6)
Did <u>not</u> say the depiction of the appearance of any particular NBA player was a reason for buying an NBA 2K video game	(82)

\* Based on Question C3.

Survey respondents who said it was important to depict particular features or aspects of the appearance of the NBA players they identified were asked the following question: "What features or aspects were important to depict of these NBA players' appearance: [NBA PLAYERS THE RESPONDENT IDENTIFIED]?"<sup>21</sup> Only one person (less than 1% of all survey respondents) said it was

20 The 5% who said the depiction of LeBron James' appearance was one of the reasons why they bought an NBA 2K video game breaks down, as follows: 3% of the survey respondents said it was important to depict particular features or aspects of LeBron James' appearance, and 2% said it was not important or they did not know whether it was important to depict particular features or aspects of LeBron James' appearance.

21 Survey respondents' verbatim responses to this question are in Appendix H.

important to depict the tattoos on the NBA players, and this person did not mention LeBron James, Danny Green, or Tristan Thompson.<sup>22</sup> None of the survey respondents said it was important to depict the tattoos on LeBron James, Danny Green, or Tristan Thompson. (See Table 13.)

<b>Table 13</b> <b>Whether It Was Important to Depict the Tattoos on</b> <b>LeBron James, Danny Green, or Tristan Thompson*</b>	
	Percent of Survey Respondents
	(n = 520)
Said it was important to depict the tattoos on (NET):	0%
LeBron James	(0)
Danny Green	(0)
Tristan Thompson	(0)
Did <u>not</u> say it was important to depict the tattoos on LeBron James, Danny Green, or Tristan Thompson	100%

\* Based on Question C4.

#### IV. Conclusions

The NBA 2K Survey was performed according to accepted survey standards and in conformity with the guidelines discussed in the *Federal Manual for Complex Litigation*, 4th Ed. §11.493 (2004) and the *Reference Guide on Survey Research, Federal Reference Manual on Scientific Evidence*, 3rd Ed. (2011). Based on the overall design and execution of the NBA 2K Survey, it provides representative and reliable information regarding individuals age 16 to 55 who bought a relevant NBA 2K video game.

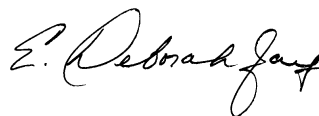
<sup>22</sup> When asked to describe his main reasons and his other reasons for buying an NBA 2K video game at the beginning of the survey, this survey respondent (Respondent 1018977419) did not mention tattoos (or even the depiction of the appearance of any of the players). When given a list of 21 reasons for buying an NBA 2K video game, this survey respondent said his most important reason for buying an NBA 2K video game was "the number of options" (Question B2) and his next most important reason for buying an NBA 2K video game was "I or a family member likes basketball" (Question B3). This survey respondent only mentioned tattoos at the end of the survey when prompted to identify what features or aspects of the appearance of particular NBA players were important to depict. When asked which NBA players' appearance was a reason why he bought an NBA 2K video game (Question C2), this survey respondent did not identify any particular NBA player. Instead, he said "The better the players look in games the more immersive they are." When asked what features or aspects of the players' appearance were important to depict (Question C4), this survey respondent said "Everything needs to be accurate, from the hair to the tattoos, to the color of their headband. I want to feel like I am the player."

None of the 520 individuals interviewed for the NBA 2K Survey said the tattoos on LeBron James, Danny Green, or Tristan Thompson were one of the reasons why they bought an NBA 2K video game. In my opinion, the NBA 2K Survey strongly supports the conclusions that a) consumers bought the relevant NBA 2K video games for numerous reasons, principally that they like basketball, b) no consumers bought the relevant NBA 2K video games for the tattoos on LeBron James, Danny Green, or Tristan Thompson, let alone the tattoos at issue in this case, and c) there is no link between the sales of the NBA 2K video games and their depiction of the tattoos on LeBron James, Danny Green, or Tristan Thompson.

The findings from the NBA 2K Survey are consistent with the findings from a survey that I conducted in 2018 that asked the same questions and was conducted with a nationwide representative sample of 507 individuals who had bought one or more NBA 2K video games between 2013 and 2018 (that is, a 2K14, 2K15, 2K16, 2K17, or 2K18 video game). None of 1,027 individuals interviewed for the 2018 survey or NBA 2K Survey said the tattoos on LeBron James, Danny Green, or Tristan Thompson were one of the reasons why they bought an NBA 2K video game.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed this 20th day of May 2021 at Redwood City, California.



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E. Deborah Jay, Ph.D.

## **Appendix A**

### **E. Deborah Jay, Ph.D. Deposition and Trial Testimony During the Past Four Years**

1. *American Dairy Queen Corporation v. W.B. Mason Co., Inc.* (United States District Court, District of Minnesota)  
Case No. 0:18-CV-00693-SRN-ECW
2. *Deckers Outdoor Corporation v. Australian Leather Pty Ltd. and Adnan Oygur* (United States District Court, Northern District of Illinois)  
Case No. 1:16-CV-03676
3. *RXD Media, LLC v. IP Application Development LLC and Apple, Inc.* (United States District Court, Eastern District of Virginia)  
Case No. 1:18-CV-486-LO-TCB
4. *Erik M. Underwood v. Bank of America* (United States District Court, District of Colorado)  
Case No. 1:18-CV-02329-WYD
5. *Solid 21, Inc. v. Hublot of America* (United States District Court, Central District of California)  
Case No. 2:11-CV-00468-DMG-JC
6. *Saxon Glass Technologies, Inc. v. Apple, Inc.* (United States District Court, Western District of New York)  
Case No. 1:15-CV-00581-EAW-HKS
7. *VirnetX, Inc. and Leidos v. Apple, Inc.* (United States District Court, Eastern District of Texas)  
Case No. 6:12-CV-00855-RWS
8. *Lauren Hall v. Welch Foods, Inc. and The Promotion In Motion Companies* (United States District Court, Eastern District of New York)  
Case No. 1:17-CV-05828-MKB-VMS
9. *Luci Bags LLC v. Younique LLC* (United States District Court, Eastern District of Texas)  
Case No. 4:17-CV-377
10. *The Kroger Co. v. Lidl* (United States District Court, Eastern District of Virginia)  
Case No. 3:17-CV-00480-JAG

## **Appendix B**

### **E. Deborah Jay, Ph.D. Resume and Publications and Presentations Since 2010**

- *Resume*
- *Publications and Presentations Since 2010*

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## E. Deborah Jay, Ph.D.

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### Current Position

Principal/Founder, Jay Survey Strategies LLC  
2000 Broadway Street  
Redwood City, CA 94063  
(415) 533-0020  
deborahjay@jaysurveystrategies.com

Jay Survey Strategies is a research agency primarily involved in conceptualizing, planning, executing, and reporting on custom-designed opinion studies.

### Technical Skills

Expert in research design and all phases of survey methodology – questionnaire design, sampling, data collection, data processing, qualitative and quantitative data analysis, with more than 40 years' experience conducting large-scale surveys of all types.

### Research Experience

#### *Branding, marketing and advertising research:*

Responsible for branding, marketing, and advertising research relating to services and products in a variety of industries (*e.g.*, health, education, technology, communications, finance, transportation, and wholesale/retail trade).

#### *Public policy studies:*

Responsible for policy analyses and evaluations concerning medical assistance programs (*e.g.*, Medicaid, Medicare, and county health services), public health campaigns (*e.g.*, concerning tobacco use, diet and nutrition), educational programs (*e.g.*, for disadvantaged students and students with disabilities), general assistance programs, and other public issues (*e.g.*, child care, access to telephone service, the environment).

#### *Litigation support:*

Court-qualified expert in survey methodology; responsible for conducting and evaluating surveys for legal cases involving a variety of issues (*e.g.*, trademark, copyright and patent infringement, false advertising, right of publicity/false endorsement, defamation, exempt/nonexempt employment classification, off-the-clock work and other wage and hour issues, employment discrimination, product liability, business conduct, natural resources valuation, change of venue) and providing expert testimony in proceedings before state and federal courts and other tribunals such as the International Trade Commission and the U.S. Patent and Trademark Office.

## Professional Experience Before Founding Jay Survey Strategies

President and CEO, Field Research Corporation, San Francisco, CA.

Program Director and Senior Research Social Scientist, SRI International (formerly Stanford Research Institute), Menlo Park, CA.

Manager, Management Consulting Division, KPMG Peat Marwick, San Francisco, CA.

Public Policy Analyst/Survey Specialist, Teknekron, Berkeley, CA.

Research Associate, Survey Research Center, University of California, Berkeley, CA.

## Education

Ph.D. in political science, University of California at Berkeley (1981).

M.A. in political science, University of California at Berkeley (1973).

B.A. in psychology/political science, University of California at Los Angeles (1972, *magna cum laude*, Phi Beta Kappa).

## Professional Associations

*Council of American Survey Research Organizations (CASRO):*

Board of Directors (1995-2001); Chair (1999); Chair-Elect (1998); Secretary (1997); Chair, Committee on Survey Research Quality (1997-1998); Chair, Committee on Standards and Ethics (1995-1996).

*American Association for Public Opinion Research (AAPOR):*

Editorial Board, Survey Practice (2007-2017); Advisory Council, Public Opinion Quarterly (2008-2012); Executive Council (2001-2003); Standards Chair (2002-2003); Associate Standards Chair (2001-2002); Standards Committee Member (1992); Past President, Pacific Chapter (1989); Appointed to numerous ad hoc committees (*e.g.*, 2009 Standards Review Committee, 2010 Survey-Based Legal Evidence Committee).

*International Trademark Association (INTA):*

Editorial Board, Trademark Reporter (2012-2019); Brand Names Education Committee (2004).

## Other Directorships

Board of Directors, Roper Center for Public Opinion Research (housed at the University of Connecticut) (1997-2003); Member, Committee on Data Acquisitions & Standards (2001-2003).

Board of Directors, Bay Area Council (1991-2009).

Board of Directors, Bay Area Economic Forum (1996-2001).

San Francisco Municipal Fiscal Advisory Committee to the Mayor (Committee Member, 1991-2001; Executive Committee Member, 1998-2001).



## Teaching Experience

Lecturer, New York City Bar Association, Trademarks and Unfair Competition Committee (New York, June 2015).

Faculty member, 2015 Trademark Office Comes to California, Continuing Legal Education Seminars sponsored by The State Bar of California Intellectual Property Law Section (Los Angeles and San Francisco, 2015).

Faculty member, IP BYTES: Hot Topics in Trademark Law, Continuing Legal Education Seminar sponsored by the Intellectual Property Section of the Bar Association of San Francisco (2014).

Lecturer, American Intellectual Property Law Association, Annual Conference (Washington DC, 2012).

Faculty member, Current Trends in Wage & Hour Litigation: Economic, Legal and Statistical Issues, Continuing Legal Education Seminar sponsored by ERS Group (San Francisco, 2006 and 2009; New York, 2007; Santa Monica, 2006, 2007, 2009, 2011 and 2012).

Lecturer, New York City Bar Association, Trademark and Copyright Committee (New York, 2011).

Faculty member, 2010 IP Damages Institute sponsored by the CalCPA Education Foundation (Los Angeles, 2010).

Faculty member, The State Bar of California 35<sup>th</sup> Annual Intellectual Property Institute (Napa, 2010).

Faculty member, Florida Bar Intellectual Property Law Symposium (Tampa, 2010).

Lecturer, Marketing Research Council (New York, 2010).

Lecturer, Surveys in Trademark Prosecution and Litigation, Continuing Legal Education Seminar and Roundtable hosted by Graham and Dunn for the International Trademark Association (Seattle, 2009).

Guest lecturer, American Studies Program, University of California at Berkeley (1999 and 2008).

Lecturer, San Francisco Intellectual Property Law Association. (San Francisco, 2006).

Faculty member, Advertising and Marketing Law, Continuing Legal Education Seminar sponsored by Insight Information (Chicago, 2006).

Faculty member, 2005 Advertising and Trademark Seminar, sponsored by Kirkland and Ellis LLP (Chicago, 2005).

Faculty member, Trademark Portfolio Acquisition and Protection, Continuing Legal Education Seminar sponsored by Law Seminars International (San Diego, 2004).

Faculty member, Trademark Dilution & Damages, Intellectual Property Section, The Barristers Club of San Francisco (2003).

Guest lecturer, Intellectual Property Seminar, Boalt Law School, University of California at Berkeley (1999-2003).

Faculty member, Basics of Trademark Litigation, Continuing Legal Education Seminar sponsored by the International Trademark Association (Washington DC, 2001).

Guest lecturer at the graduate and undergraduate levels, Marketing Research Seminars, Haas School of Business, University of California at Berkeley (1995-2000).

Faculty member, Forensics Research Conference, Council of American Survey Research Organizations (New York, 2000).

Faculty member, Employment Discrimination: Statistical Evidence and Economic Exposure, Continuing Legal Education Seminar sponsored by ERS Group (Atlanta, Chicago, San Francisco, 1996-2000).

Faculty member, Advertising Law for the Next Century in California, Continuing Legal Education Seminar sponsored by Lorman Education Services (San Francisco, 1999).

Guest lecturer, Institute for Governmental Studies, University of California at Berkeley (1999).

Faculty member, National Advertising Division of the Council of Better Business Bureaus, Workshop IX (San Francisco, 1998).

Lecturer on public opinion research, Political Science Department, University of California at Davis (1978).

**E. Deborah Jay, Ph.D.**  
**Publications and Presentations Since 2010**  
**(Author or Co-author)**

- "Trademark Surveys: Threshold Issues." Presentation at the 2019 AIPLA Spring Meeting (Philadelphia, May 2019).
- "Trademark Survey Evidence: Getting Through the Gate." Presentation at the 2018 Perkins Coie Intellectual Property Group Retreat (Denver, October 2018).
- "Targeting Trademark Surveys." Presentation to the New York City Bar Association Trademarks and Unfair Competition Committee (New York, June 2015).
- "Mark My Words: Contemporary Trademark Surveys." Presentation for the 2015 Trademark Office Comes to California, Continuing Legal Education Seminars sponsored by The State Bar of California Intellectual Property Law Section (Los Angeles and San Francisco, April 2015).
- "He Who Steals My Good Name: Likelihood-of-Confusion Surveys in TTAB Proceedings." 104 Trademark Reporter 1141 (2014).
- "Millennium Falconry: Navigating the Hyperspace of 21st Century Trademark Surveys." Presentation for the IP BYTES: Hot Topics in Trademark Law seminar sponsored by the Intellectual Property Section of the Bar Association of San Francisco (July 2014).
- "Ten Truths of False Advertising Surveys." 103 Trademark Reporter 1116 (2013).
- "Polling Consumers: Surveys in Advertising Cases." Presentation at the 2012 American Intellectual Property Law (AIPLA) Annual Conference. (Washington DC, October 2012).
- "Genericness Surveys in Trademark Disputes: Under the Gavel." In Trademark and Deceptive Advertising Surveys: Law, Science, and Design, edited by Shari Seidman Diamond and Jerre B. Swann (Chicago, IL: American Bar Association, 2012).
- "He Who Steals My Good Name: The Use of Survey Evidence in Intellectual Property Cases." Presentation at the New York City Bar Association Trademark and Copyright Committee (New York, December 2011).
- "Using Surveys to Assess Damages in Intellectual Property Disputes." Presentation at the 2010 IP Damages Institute sponsored by the CalCPA Education Foundation (Los Angeles, November 2010).
- "Wine, Women & Song: The Use of Survey Evidence in the Gallo, Princess Diana and Napster Cases." Presentation at The State Bar of California 35<sup>th</sup> Annual Intellectual Property Institute (Napa, October 2010).

"Asked and Answered: Surveys in Trademark and Other Intellectual Property Disputes."  
Presentation at the Florida Bar Intellectual Property Law Symposium (Tampa, March 2010).

"Surveys as Scientific Evidence: Anatomy of a Survey in Court." Presentation for the Marketing  
Research Council (New York, March 2010).

## **Appendix C**

### **Materials Considered**

## Materials Considered

Counsel for 2K Games, Inc. and Take-Two Interactive Software, Inc. provided me with a copy of the complaint filed in connection with *James Hayden v. 2K Games, Inc. and Take-Two Interactive Software, Inc.* (N.D. Ohio, Case No. 1:17-cv-02635-CAB). I also looked at the NBA 2K games in question, the 2K Games, Inc. website located at [www.2K.com](http://www.2K.com), and other information about the NBA 2K games on the Internet. The other materials I considered are described in my report and/or included as appendices to my report.

## **Appendix D**

### **Questionnaire (Sample Web Screenshots)**

**QUESTION S1**

**YouGov**

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We are conducting a short opinion survey for Jay Survey Strategics, an independent research firm.

What is your gender?

- ☐ Male
- ☐ Female





**QUESTION S2**  
**(IF S1 MATCHES GENDER IN DATABASE)**

**YouGov**

What is your age?

Please type your answer here.

>

**QUESTION S3**  
**(IF S2 = 16-55 AND MATCHES AGE IN DATABASE)**

**YouGov**

---

Do you agree to answer all survey questions on your own, without asking anybody else for help or referring to reference materials or the Internet?

- ☐ Yes, I agree
- ☐ No, I do not agree




**QUESTION S4\***  
**(IF S3 = YES, I AGREE)**

**YouGov**

---

What order are these colors in? (Note, the image may take a few seconds to load.)



☐ Blue, yellow, green, red

☐ Blue, red, green, yellow

☐ Yellow, green, blue, red

☐ Green, blue, red, yellow

☐ Green, red, blue, yellow

☐ Red, yellow, green, blue

☐ None of the above

☐ Don't know

\* The order of the first six answer categories was randomized across survey respondents.

**QUESTION S5\***  
**(IF S4 = GREEN, RED, BLUE, YELLOW)**

**YouGov**

---

In the past 5 years, did you buy any of the following items?  
(SELECT ALL ANSWERS THAT APPLY)

- ☐ An activity tracker
- ☐ A laptop or tablet
- ☐ A smartwatch
- ☐ A camera or camcorder
- ☐ A video game
- ☐ Wireless earbuds or earphones
- ☐ A cell phone
- ☐ A gaming headset
- ☐ None of the above
- ☐ Don't know

>

\* The order of the first eight answer categories was randomized across survey respondents.

**QUESTION S6\***  
**(IF S5 = A VIDEO GAME)**

**YouGov**

---

In the past 5 years, which of the following types of video games, if any, did you buy?  
(SELECT ALL ANSWERS THAT APPLY)

☐ Role-playing games

☐ Music or rhythm games

☐ Sports games

☐ Action or adventure games

☐ None of the above

☐ Don't know

>

\* The order of the first four answer categories was randomized across survey respondents.

**QUESTION S7\***  
**(IF S6 = SPORTS GAMES)**

**YouGov**

---

In the past 5 years, which of the following types of sports video games, if any, did you buy?  
(SELECT ALL ANSWERS THAT APPLY)

☐ Basketball

☐ Hockey

☐ Baseball

☐ Skateboarding

☐ Football

☐ None of the above

☐ Don't know

>

\* The order of the first five answer categories was randomized across survey respondents.

**QUESTION S8**  
**(IF S7 = BASKETBALL)**

**YouGov**

In the past 5 years, did you buy any of the following NBA 2K video games?  
(SELECT ALL ANSWERS THAT APPLY)

- ☐ NBA 2K16
- ☐ NBA 2K17
- ☐ NBA 2K18
- ☐ NBA 2K19
- ☐ NBA 2K20
- ☐ NBA 2K Mobile
- ☐ None of the above
- ☐ Don't know



**QUESTION S9\***  
**(IF S8 = NBA 2K16, 2K17, 2K18, 2K19, 2K20, OR 2K MOBILE)**

**YouGov**

---

Do you or does anyone in your household work for any of the following types of organizations or companies?  
(SELECT ALL ANSWERS THAT APPLY)

- ☐ A government agency
- ☐ An advertising agency or marketing research firm
- ☐ A video game company or store
- ☐ None of the above
- ☐ Don't know

>

\* The order of the first three answer categories was randomized across survey respondents.



**INSTRUCTION A**  
**(IF S9 ≠ A VIDEO GAME COMPANY OR STORE OR**  
**AN ADVERTISING AGENCY OR MARKETING RESEARCH FIRM)**

**YouGov**

---

Our next questions are about the NBA 2K video game(s) that you bought.

We would like to assure you that we are only interested in your opinions and beliefs. If you do not know the answer to a question or do not have an opinion or belief, please indicate this.



**QUESTION A1**

**YouGov**

---

What were the main reasons why you bought an NBA 2K video game?  
(PLEASE TYPE YOUR ANSWER IN THE BOX)

☐ Don't know



**QUESTION A2**  
**(IF A1 ≠ DON'T KNOW)**

**YouGov**

---

What were the other reasons, if any, why you bought an NBA 2K video game?  
(PLEASE TYPE YOUR ANSWER IN THE BOX)

☐ Don't know




**QUESTION B1\***

**YouGov**

---

Which of the following items, if any, were a reason why you bought an NBA 2K video game?  
(SELECT ALL ANSWERS THAT APPLY)

- ☐ The ability to collect or purchase cards that unlock players and other items
- ☐ The ease of playing the game
- ☐ The speed of gameplay
- ☐ The camera angles during gameplay
- ☐ The XTJ feature
- ☐ The number of options
- ☐ The overall quality of the graphics
- ☐ The price/value
- ☐ I or a family member likes basketball
- ☐ The different arenas
- ☐ The pre-game, half-time, and/or post-game shows
- ☐ The soundtrack
- ☐ The depiction of the NBA players' movements
- ☐ The ability to build your own team or create an expansion team
- ☐ The ability to play tournament-style competitions against other players
- ☐ The crowd animations
- ☐ The inclusion of other teams besides current NBA teams (such as the classic, historic or national teams)
- ☐ The ability to maintain a trading card collection
- ☐ The depiction of the NBA players' face, body or other aspects of their appearance
- ☐ The ability to customize a player's game style, tendencies or attributes
- ☐ The inclusion of current NBA teams
- ☐ None of the above
- ☐ Don't know



\* The order of the first 21 answer categories was randomized across survey respondents.

**QUESTION B2\***  
**(IF B1 = MORE THAN ONE ITEM)**

**YouGov**

Which one of these was the most important reason why you bought an NBA 2K video game?

- ☐ The number of options
- ☐ The overall quality of the graphics
- ☐ I or a family member likes basketball
- ☐ The depiction of the NBA players' face, body or other aspects of their appearance
- ☐ Don't know



\* Only categories selected in B1 are displayed, in the order in which they appeared in B1. Options were selected at random for this appendix.

**QUESTION B3\***  
**(IF B1 = MORE THAN TWO ITEMS AND B2 ≠ DON'T KNOW)**

**YouGov**

---

Which one of these was the next most important reason why you bought an NBA 2K video game?

- ☐ The number of options
- ☐ The overall quality of the graphics
- ☐ The depiction of the NBA players' face, body or other aspects of their appearance
- ☐ Don't know

>

\* Only categories selected in B1 and not selected in B2 are displayed, in the order in which they appeared in B1. Options were selected at random for this appendix.

**QUESTION C1**  
**(IF B1 = DEPICTION OF THE NBA PLAYERS' FACE, BODY, OR OTHER ASPECTS OF THEIR APPEARANCE)**

**YouGov**

Was the depiction of the appearance of any particular NBA player or players a reason why you bought an NBA 2K video game?

☐ Yes

☐ No

☐ Don't know

>

**QUESTION C2**  
**(IF C1 = YES)**

**YouGov**

Which NBA player or players' depiction was a reason why you bought an NBA 2K video game?  
(PLEASE TYPE YOUR ANSWER IN THE BOX)

☐ Don't know

>

**QUESTION C3**  
**(IF C2 ≠ DON'T KNOW)**

**YouGov**

In the NBA 2K video game(s) you bought, were there any particular features or aspects you thought were important to depict of these NBA players' appearance: [Player 1](#), [Player 2](#)?

☐ Yes

☐ No

☐ Don't know

>

**QUESTION C4**  
**(IF C3 = YES)**

**YouGov**

What features or aspects were important to depict of these NBA players' appearance: [Player 1](#), [Player 2](#)?

(PLEASE TYPE YOUR ANSWER IN THE BOX)

☐ Don't know

>



***CLOSING***

**YouGov**

---

Thank you for your help with this survey.



## **Appendix E**

### **NBA 2K Survey Methods**

## **NBA 2K Survey Methods**

The NBA 2K Survey was conducted with a nationwide representative sample of persons age 16 to 55 who had bought one or more of the following NBA 2K video games: NBA 2K16, 2K17, 2K18, 2K19, 2K20 or 2K Mobile.<sup>1</sup> The purpose of the NBA 2K Survey was to determine the reasons for buying an NBA 2K video game and whether the tattoos on LeBron James, Danny Green, or Tristan Thompson were a reason why consumers bought an NBA 2K video game.

### **A. Sampling Frame and Questionnaire**

Under my design, direction and supervision, YouGov, a full-service marketing research firm, selected the sample and collected the data for the NBA 2K Survey using its online panel, which consists of approximately two million persons who are representative of all individuals age 16 and older in the United States.<sup>2</sup> Each person who was randomly selected from the YouGov panel and invited to participate in the NBA 2K Survey was provided with a unique link to the survey, so that no individual could participate in the survey more than once.<sup>3</sup>

#### **Survey Introduction and Eligibility Questions**

Jay Survey Strategies developed a questionnaire for the survey to be completed online by a nationwide representative sample of individuals age 16 to 55 randomly-selected from YouGov's online panel.<sup>4</sup> The NBA 2K Survey was introduced in the following manner, and then survey respondents were asked for their gender and age:

We are conducting a short opinion survey for Jay Survey Strategies, an independent research firm.

- 
- 1 Individuals age 16 to 55 were surveyed because I understand that most of the relevant NBA 2K video games were bought by persons in this age group.
  - 2 Background information on YouGov's online panel is in Appendix F.
  - 3 The IP address and other information in YouGov's panel database also were checked to ensure that the sample did not include duplicate respondents.
  - 4 Sample screenshots showing how the questionnaire appeared on the computer are in Appendix D.

(S1) What is your gender?

(S2) What is your age?

To be eligible for the NBA 2K Survey, a respondent had to be age 16 to 55. For validation purposes, the demographic information (the gender and age) that respondents provided in the survey was compared with the demographic information in YouGov's panel database. Only those survey respondents whose gender and age were consistent with the information in the YouGov panel database were eligible to participate in the NBA 2K Survey.<sup>5</sup> In other words, the demographic information was validated for 100% of the persons included in the NBA 2K Survey. Survey respondents with valid demographics were asked whether they would agree to complete the survey on their own:

(S3) Do you agree to answer all survey questions on your own, without asking anybody else for help or referring to reference materials or the Internet?

Only those respondents who agreed to complete the survey on their own (without help from anyone else or referring to reference materials or the Internet) were eligible to participate in the NBA 2K Survey. Next, survey respondents were asked the following question:<sup>6</sup>

(S4) What order are these colors in? (Note, the image may take a few seconds to load.)#



Blue, yellow, green, red  
Green, red, blue, yellow  
Blue, red, green, yellow  
Red, yellow, green, blue  
Yellow, green, blue, red  
Green, blue, red, yellow  
None of the above  
Don't know

5 The age an individual provided in the survey was considered to be consistent if it was within two years of the age derived from the birthdate the individual provided when he/she joined the YouGov online panel.

6 A cross-hatch symbol (#) indicates that the order of the response categories for a question was randomized across survey respondents.

This question was a CAPTCHA question – it was included in the survey to ensure that a survey respondent was a human (and not a machine) and was paying attention. Only those survey respondents who correctly indicated that the colors were "green, red, blue, yellow" were eligible to continue. Next, survey respondents were asked the following questions to determine whether they had bought a sports video game in the past 5 years:

(S5) In the past 5 years, did you buy any of the following items?#

- An activity tracker
- A camera or camcorder
- A cell phone
- A gaming headset
- A laptop or tablet
- A smartwatch
- A video game
- Wireless earbuds or earphones
- None of the above
- Don't know

*IF VIDEO GAME:*

(S6) In the past 5 years, which of the following types of video games, if any, did you buy?#

- Music or rhythm games
- Action or adventure games
- Sports games
- Role-playing games
- None of the above
- Don't know

Survey respondents who had bought a sports video game in the past 5 years were asked the following questions to determine whether they had bought a relevant NBA 2K video game:

(S7) In the past 5 years, which of the following types of sports video games, if any, did you buy?#

- Baseball
- Basketball
- Football
- Hockey
- Skateboarding
- None of the above
- Don't know

IF BASKETBALL:

(S8) In the past 5 years, did you buy any of the following NBA 2K video games?

NBA 2K16  
NBA 2K17  
NBA 2K18  
NBA 2K19  
NBA 2K20  
NBA 2K Mobile  
None of the above  
Don't know

To qualify for the NBA 2K Survey, respondents had to indicate that they had bought one of the following NBA 2K video games in the past 5 years: 2K16, 2K17, 2K18, 2K19, 2K20 or 2K Mobile. These survey respondents were asked one additional qualifying question:

(S9) Do you or does anyone in your household work for any of the following types of organizations or companies?#

A government agency  
A video game company or store  
An advertising agency or marketing research firm  
None of the above  
Don't know

Survey respondents were not eligible to participate in the NBA 2K Survey if they said that someone in their household worked for a video game company or store, or an advertising agency or marketing research firm. This is because these respondents might have special knowledge about the subject of the survey – namely, reasons for buying sports video games.

In all, 8,523 randomly-selected individuals age 16 to 55 were screened for eligibility, and of these, 520 (6%) qualified for the NBA 2K Survey (*i.e.*, they had bought a relevant NBA 2K video game in the past 5 years, and they did not work for a video game company or store or for an advertising agency, or a marketing research firm).

### Questions for Qualified Respondents

The 520 individuals who qualified for the NBA 2K Survey were told the following:<sup>7</sup>

Our next questions are about the NBA 2K video game(s) you bought. We would like to assure you that we are only interested in your opinions and beliefs. If you do not know the answer to a question or do not have an opinion or belief, please indicate this.

Qualified survey respondents were asked up to four sets of questions. The first set of questions collected information about the reasons why survey respondents bought an NBA 2K video game and included the following open-ended questions (questions that required survey respondents to answer in their own words):

(A1) What were the main reasons why you bought an NBA 2K video game?

*IF NOT "DON'T KNOW":*

(A2) What were the other reasons, if any, why you bought an NBA 2K video game?

The second set of questions was "closed-ended" (the questions included response categories from which respondents selected their answers). This set of questions asked survey respondents about 20 possible reasons for buying an NBA 2K video game, including the depiction of the NBA players' face, body or other aspects of their appearance. Additionally, survey respondents were asked about a fictitious feature, the "XTJ feature," which was created by randomly generating three letters.<sup>8</sup> The purpose of the fictitious item was to determine the amount of guessing or "noise" in the NBA 2K Survey. The second set of questions was worded, as follows:

---

<sup>7</sup> The email invitation sent to randomly-selected individuals is included at the end of this appendix. Of the 8,523 individuals who responded to the email invitation and were asked the eligibility questions, 8,003 did not qualify for the NBA 2K Survey for the following reasons: a) they were not age 16 to 55 or their age or gender did not match the information in the panel database (844 individuals); b) they did not agree to complete the survey on their own (100 individuals); c) they did not accurately identify the order of the colors they were shown (144 individuals); d) they did not buy any video games in the past 5 years (4,164 individuals); e) they did not buy sports video games in the past 5 years (2,013 individuals); f) they did not buy basketball video games in the past 5 years (605 individuals); g) they did not buy a relevant NBA 2K video game in the past 5 years (56 individuals), or h) they or a member of their household worked for a video game company or store, or for an advertising agency or marketing research firm (77 individuals). As a token of appreciation, survey participants received points worth 50 cents, which they can accumulate and redeem for gift cards.

<sup>8</sup> NBA 2K video games do not have an "XTJ feature."

(B1) Which of the following items, if any, were a reason why you bought an NBA 2K video game? #

I or a family member likes basketball  
 The ease of playing the game  
 The speed of gameplay  
 The overall quality of the graphics  
 The soundtrack  
 The camera angles during gameplay  
 The number of options  
 The inclusion of current NBA teams  
 The inclusion of other teams besides current NBA teams (such as the classic, historic, or national teams)  
 The crowd animations  
 The pre-game, half-time, and/or post-game shows  
 The different arenas  
 The ability to build your own team or create an expansion team  
 The ability to customize a player's game style, tendencies or attributes  
 The ability to maintain a trading card collection  
 The ability to play tournament-style competitions against other players  
 The ability to collect or purchase cards that unlock players and other items  
 The depiction of the NBA players' movements  
 The depiction of the NBA players' face, body or other aspects of their appearance  
 The price/value  
 The XTJ feature  
 None of the above  
 Don't know

*IF MORE THAN ONE REASON SELECTED:*

(B2) Which one of these was the most important reason why you bought an NBA 2K video game?

*IF MORE THAN TWO REASONS SELECTED:*

(B3) Which one of these was the next most important reason why you bought an NBA 2K video game?

Survey respondents who said the depiction of the NBA players' face, body or other aspects of their appearance was one of the reasons why they bought an NBA 2K video game in Question B1 were asked a third set of questions. The purpose of the third set of questions was to determine whether the depiction of the appearance of LeBron James, Danny Green, or Tristan Thompson was a reason for buying an NBA 2K video game. This set of questions included the following items:



(C1) Was the depiction of the appearance of any particular NBA player or players a reason why you bought an NBA 2K video game?

IF YES:

(C2) Which NBA player or players' depiction was a reason why you bought an NBA 2K video game?

Survey respondents who did not say "Don't know" when asked which NBA players were important to depict in Question C2 were asked a fourth set of questions.<sup>9</sup> The purpose of the fourth set of questions was to determine whether the tattoos on LeBron James, Danny Green, or Tristan Thompson were a reason why survey respondents bought an NBA 2K video game. This set of questions included the following items:

(C3) In the NBA 2K video game(s) you bought, were there any particular features or aspects you thought were important to depict of these NBA players' appearance: [ANSWER FROM C2]?

IF YES:

(C4) What features or aspects were important to depict of these NBA players' appearance: [ANSWER FROM C2]?

## B. Survey Administration

The NBA 2K Survey was double-blind (neither the persons administering the survey nor the survey respondents were told: a) the names of the sponsors of the survey, b) that the survey was intended to determine the reasons for buying an NBA 2K video game and whether the tattoos on LeBron James, Danny Green, or Tristan Thompson were a reason for buying an NBA 2K video game, or c) that the survey was being conducted in connection with litigation).

The NBA 2K Survey was conducted between October 8 and October 29, 2019, and it was performed according to accepted survey standards and in conformity with the guidelines discussed in the *Federal Manual for Complex Litigation*, 4th Ed. §11.493 (2004) and the *Reference Guide on Survey Research*, *Federal Reference Manual on Scientific Evidence*, 3rd Ed. (2011). The population for the NBA 2K Survey was properly defined as individuals age 16 to 55

<sup>9</sup> Survey respondents who said "don't know" in the response Question C2 were not asked any additional questions.

who had bought a relevant NBA 2K video game in the past 5 years. The questions asked in the NBA 2K Survey were clear and not leading. The data gathered were accurately reported, and the data were analyzed in accordance with accepted statistical principles. The NBA 2K Survey was conducted, under my direction, by survey research professionals following proper survey procedures, and the entire process was conducted so as to ensure objectivity.

### C. Characteristics of Individuals Screened for Eligibility

As intended, the demographic characteristics of the individuals who were screened for eligibility are similar to those of all persons age 16 to 55 in the United States. (See Table E-1.)

<b>Table E-1</b> <b>Demographic Characteristics for All U.S. Persons Age 16 to 55 and</b> <b>for Persons Screened for Eligibility for the NBA 2K Survey*</b>		
	<b>U.S. Persons</b> <b>Age 16 to 55</b>	<b>Persons Screened</b> <b>for Eligibility</b> <i>(n = 8,523)</i>
<b>Region</b>		
Northeast	17%	18%
Midwest	21	20
South	38	38
West	24	24
<b>Age</b>		
16 to 29	36%	36%
30 to 44	36	35
45 to 55	28	29
<b>Gender</b>		
Male	50%	48%
Female	50	52
<b>Race</b>		
White	58%	62%
Black	13	12
Hispanic	19	16
Other/Multiple	10	10

\* Based on American Community Survey data collected by the U.S. Census Bureau and demographic information in the YouGov panel database. "n" refers to the number of persons who were screened for eligibility for the NBA 2K Survey.

## D. Characteristics of NBA 2K Survey Respondents

As shown in Table E-2, the 520 individuals who qualified for the NBA 2K Survey included a greater percentage of men and persons age 16 to 44, relative to all persons age 16 to 55 in the United States. This is because men and persons age 16 to 44 were more likely than women and persons age 45 to 55 to have bought a relevant NBA 2K video game in the past 5 years.

<b>Table E-2</b> <b>Demographic Characteristics for All U.S. Persons Age 16 to 55 and</b> <b>for Persons Who Qualified for the NBA 2K Survey*</b>		
	<b>All U.S. Persons Age 16 to 55</b>	<b>NBA 2K Survey Respondents (n = 520)</b>
<b>Region</b>		
Northeast	17%	20%
Midwest	21	19
South	38	42
West	24	19
<b>Age</b>		
16 to 29	36%	33%
30 to 44	36	50
45 to 55	28	17
<b>Gender</b>		
Male	50%	65%
Female	50	35
<b>Race</b>		
White	58%	64%
Black	13	19
Hispanic	19	11
Other/Multiple	10	6

\* Based on American Community Survey data collected by the U.S. Census Bureau and demographic information in the YouGov panel database. "n" refers to the number of persons who qualified for the NBA 2K Survey.

Based on the overall design and execution of the NBA 2K Survey, the survey provides representative and reliable information regarding individuals age 16 to 55 who bought a relevant NBA 2K video game.

## Email Invitation

Can't read this email? [Click here to view a desktop version.](#)

**YouGov**<sup>®</sup> What the world thinks

Hi InvitationName,

You have been selected to share your opinions in a new YouGov survey.

We know your time is valuable. As a way of showing our thanks, you'll be awarded points when you complete every survey we email you. The longer the survey, the more points you earn.

**Start Now**

If you cannot view or click on the button above, please copy and paste this address into your browser:

**[SurveyLink](#)**

Thank you for being an active member of the YouGov community!

Kelly Connor  
YouGov



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For more information on YouGov visit <http://today.yougov.com>. If you have any questions please read our [membership rules](#) and [Privacy Policy](#).

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## **Appendix F**

### **Background Information on the YouGov Online Panel**

- *YouGov Survey Procedures*
- *YouGov Answers to ESOMAR Questions*



## **Survey Procedures:**

### Information Related to the Treatment of Human Subjects

**Updated on January 30, 2012**

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## **YOUgov PANEL RECRUITMENT**

The YouGov panel, a proprietary opt-in survey panel, is comprised of 1.2 million U.S. residents who have agreed to participate in YouGov's Web surveys. At any given time, YouGov maintains a minimum of five recruitment campaigns based on salient current events.

Panel members are recruited by a number of methods to help ensure diversity in the panel population. Recruiting methods include Web advertising campaigns (public surveys), permission-based email campaigns, partner sponsored solicitations, telephone-to-Web recruitment (RDD based sampling, and mail-to-Web recruitment (voter registration based sampling).

The primary method of recruitment for the YouGov panel is Web advertising campaigns that target respondents based on their keyword searches. In practice, a search in Google may prompt an active YouGov advertisement inviting their opinion on the search topic. At the conclusion of the short survey respondents are invited to join the YouGov panel in order to directly receive and participate in additional surveys. After a double opt-in procedure, where respondents must confirm their consent again by responding to an email, the database checks to ensure the newly recruited panelist is in fact new and that the address information provided is valid.

Additionally, YouGov augments the panel with difficult to recruit respondents by soliciting panelists in telephone and mail surveys. For instance, in the fall and winter of 2006, YouGov completed telephone interviews using RDD sampling and invited respondents to join the online panel. Respondents provided a working email where they could receive an electronic invitation and confirm their consent and interest in receiving and participating in YouGov Web surveys. YouGov also employed registration based sampling, inviting respondents to complete a pre-election survey online. At the conclusion of that survey, respondents were invited to become YouGov members and receive additional survey invitations to their email address. YouGov also conducted telephone-to-Web recruitment in the fall and winter of 2010.

By utilizing different modes of recruitment continuously over time, this ensures that hard-to-reach populations will be adequately represented in survey samples. Participants are not paid to join the YouGov panel, but do receive incentives through a loyalty program to take individual surveys.



## **YG PRIVACY AND CONSENT STATEMENT**

The information below is provided to each respondent when they provide their contact information and indicate they would like to receive survey invitations from YouGov.

### **Consent Statement**

YouGov invites people to complete self-administered surveys via the web using a panel of respondents. Panelists are provided the privacy policy below when they voluntarily sign up and are provided a link to this with each study request. Specifically, each invitation states that their participation is voluntary and confidential.

Our detailed privacy policy is elaborated at <http://today.yougov.com/privacy/>, see below.

### **Privacy Policy**

Effective as of March 1, 2011.

The most recent update to the privacy policy changed our company name from YouGovPolimetrix to YouGov. Some other clarifications of policy were also made.

The YouGov website is operated by YouGov, a non-partisan polling firm headquartered in Palo Alto, California and one of the YouGov companies. YouGov is committed to answering important political and social questions and YouGov is designed to give people a chance to share their opinions about those important topics.

The information our users provide is absolutely confidential. When a user registers for the panel, we ask a few basic questions to verify demographic information (e.g., age, gender, state). We do not sell or disclose this personal information to anyone at any time, except under limited conditions as specifically noted below, though we may report the information in aggregate form (e.g., "65 percent of those aged 55 and older reported a high level of interest in the president's State of the Union address.")

### **About This Privacy Policy**

YouGov respects the privacy of all of its respondents. This Privacy Policy outlines what personally identifiable information is collected, how the information is used, with whom the information may be shared, and the security procedures in place to protect the loss, misuse, or alteration of information under our control. We reserve the right to modify this privacy statement at any time, so please review it frequently. If we make material changes to this policy, we will notify you here.

## **Non-Personal Information We Collect**

To register with YouGov, we require respondents to submit Personally Identifiable Information. Respondents are responsible for ensuring the accuracy of the Personally Identifiable Information they submit to YouGov.

Without registration to the YouGov panel, the only information we may collect is Non-Personal Information through the use of Cookies or Web Beacons.

As is true of most websites, we gather certain information automatically and store it in log files. This information includes internet protocol (IP) addresses, browser type, internet service provider (ISP), referring/exit pages, operating system, date/time stamp, and clickstream data. We use this information, which does not identify individual users, to analyze trends, administer the site, track users' movements around the site and gather demographic information about our user base as a whole.

### **A. Cookies**

The information collected by Cookies allows us to monitor how many people are using our website, how many people open our e-mails, and determine for what purposes these actions are being taken. Cookies are also used to facilitate a user's log-in, as navigation aides, and as session timers, but not to retain Personal Information. Cookies used by YouGov are also used to restrict underage use of the tools. Most browsers offer instructions on how to reset the browser to reject Cookies in the "Help" section of the toolbar. We do not link Non-Personal Information from Cookies to Personally Identifiable Information without permission, and do not use Cookies to collect or store Personal Information.

### **B. Web Beacons**

We also may use Web Beacons to collect Non-Personal Information about the use of our website. The information collected by Web Beacons allows us to monitor how many people are using our website, how many people open our e-mails, and determine for what purposes these actions are being taken. Our Web Beacons are not used to track activity outside of our websites. We do not link Non-Personal Information from Web Beacons to Personally Identifiable Information without permission and do not use Web Beacons to collect or store Personal Information.

## **Personally Identifiable Information We Collect**

### **A. Registration**

We collect Personally Identifiable Information, such as name, mailing address and e-mail address, that our members provide to us when they register as YouGov panelists. We use the Personally Identifiable Information to gather opinions on important topics, answer questions, send e-mails about website maintenance and updates, place panelists in the correct regional and political jurisdictions (e.g. the correct congressional district or voting precinct), and inform panelists of significant changes to this Privacy Policy.

### **B. E-mails You Send to YouGov**

This Privacy Policy does not protect you when you send content, business information, ideas, concepts or inventions to YouGov or YouGov by e-mail. If you want to keep content or business information, ideas, concepts or inventions private or proprietary, do not send them in an e-mail.

### **C. Children**

We are committed to protecting the privacy of children. YouGov is not designed or intended to attract children under the age of 18. We do not collect Personally Identifiable Information from any person we actually know is under the age of 14.

### **D. Surveys – Personally Identifiable Information**

When participating in a survey, we may ask panelists to submit Personally Identifiable Information. This Personally Identifiable Information is used for research purposes, and is not used for sales solicitations. When a survey is sponsored by a third party, Aggregate Information of the survey results is reported to the sponsor. Personally Identifiable Information collected through surveys will be used only by YouGov and its operations contractors, and will not be given or sold to a third party without the panelist's consent. You will never receive email from any third party as a result of using the YouGov site, participating in YouGov research activities or becoming a YouGov panel member, unless you specifically opt to do so.

### **E. Surveys – Responses**

Aside from personally identifiable information, YouGov may, in the course of interacting with panel members, gather other types of information ("Operating Information"). YouGov panelists receive survey invitations periodically (weekly or monthly, for example) depending on their stated preferences. These surveys will ask questions about opinions and attitudes toward current affairs.

### **Disclosure of Information**

Except as set forth in this Privacy Policy or as specifically agreed to by you, YouGov will not disclose any Personally Identifiable or Personal information gathered on our websites. We will only release Personally Identifiable or Personal information to third parties: (1) to comply with valid legal requirements such as a law, regulation, search warrant, subpoena or court order; (2) to reduce fraud or criminal activity; (3) to protect the legal rights of YouGov, our customers, our Websites, or the users of our Websites; (4) to allow a purchaser of a YouGov division, or YouGov as a whole, to continue using your information to serve you or as otherwise permitted by this Privacy Statement; or (5) in special cases, such as a physical threat to you or others. In the event that we are legally compelled to disclose Personally Identifiable or Personal information to a third party, we will attempt to notify you unless doing so would violate the law or court order. In addition, we may disclose Personal Information as described below.

### **A. Aggregate Data**

YouGov may provide Aggregate Information to third parties. For example, we might inform third parties regarding the number of users of our website and the activities they conduct while on our site. We might also inform an interested policy group that "30% of our users live east of the Mississippi" or that "25% of our users have registered to vote online." Depending on the circumstances, we may or may not charge third parties for this Aggregate Information. We require parties with whom we share Aggregate Information to agree that they will not attempt to make this information personally identifiable, such as by combining it with other databases.

## **B. Disclosure to YouGov Operations and Maintenance Contractors**

YouGov operations and maintenance contractors sometimes have limited access to Personally Identifiable Information in the course of providing products or services to YouGov. These contractors include vendors and suppliers that provide us with technology, services, or external data or other content. Access to Personally Identifiable Information by these contractors is limited to the information reasonably necessary for the contractor to perform its limited function for YouGov. We also contractually require that our operations and maintenance contractors 1) protect the privacy of Personally Identifiable Information consistent with this Privacy Policy, and 2) not use or disclose Personally Identifiable Information for any purpose other than providing us with products and services.

## **Data Security and Responsibility**

Your Personal Information, Demographic Information, and Operating Information will generally be stored in our YouGov databases, which are located in the United States. YouGov uses firewalls to protect information held in our servers, and requires all employees to abide by our Privacy Policy and be subject to disciplinary action if they violate it. YouGov also backs up our systems to protect the integrity of the Personally Identifiable and Personal information we collect.

Despite our efforts to protect the Personally Identifiable Information and Personal information of our panelists, there is always some risk that an unauthorized third party may find a way around our security systems or that transmissions of information over the Internet will be intercepted. However, YouGov will always be vigilant in minimizing such risk to the best of our ability.

## **PROTECTION OF HUMAN SUBJECTS**

YouGov works with the Western IRB to ensure its research protocol and specific studies are consistent with Good Clinical Practices as defined under the U.S. Food and Drug Administration (FDA) regulations and the International Conference on Harmonisation (ICH) guidelines.

Additionally, the YouGov research protocol has been reviewed and approved for Federalwide Assurance (FWA) by the Department of Health and Human Services (DHHS). The FWA number assigned to YouGov, Inc., is FWA00010960. YouGov's FWA approval is listed on the Department of Health and Human Services website at <http://ohrp.cit.nih.gov/search/search.aspx>. Funding agencies may use this website to verify that YouGov holds an active OHRP-approved FWA. The expiration date for our FWA renewal is 10/13/2016.

All members of the Scientific Research team have IRB training.

## **HOSTING FACILITIES**

YouGov hosts its servers at the Equinix data center facility in Palo Alto (PAIX) which provides us with highly-available, high performance, mission critical Internet access. This facility has redundant backup power generators and uninterruptible power systems, along with high speed fiber links to multiple carriers. YouGov purchases "clear-channel" private Internet connectivity to avoid network congestion. In addition to multiple connections to the major Tier 1 Internet backbones like Level 3 and Williams Communications, our Web hosting facility also maintains fiber connectivity to InterNAP. InterNAP utilizes a proprietary network architecture and advanced routing technologies, which enables them to route data to and from destinations in a manner that minimizes the use of congested public exchanges and private peering points. This routing enables higher transmission speeds and lower instances of data packet loss. Our facilities are provisioned with the connectivity and dynamic bandwidth scalability needed to handle high-bandwidth applications, traffic spikes, and network outage issues. Access to the facility is by appointment, confirmed by credentials and secure passcode. The YouGov servers are housed in dedicated racks with locked doors that can only be accessed by authorized YouGov personnel. PAIX is SAS-70 certified.

## **DATA SECURITY AND RESPONSIBILITY**

YouGov uses software-based firewalls, a DMZ, and multiple VLANs to secure external access to our servers and internal networks. Additional multi-layer software controls protect the integrity of the personally identifying and other confidential respondent information. Databases are backed up continuously; all other information is backed up daily. The back-up system has been documented and data retrievals from the back-up system have been tested for integrity.

Access to confidential respondent information is limited to authorized users in the company's survey and information services groups and is password protected. Access rights can be changed at any time by the CTO and password security is strictly enforced. YouGov has not experienced any known security breaches since inception and regularly audits its security procedures.

## YouGov Incentives

YouGov manages an incentive program as a thank you for respondent participation. Survey respondents are awarded "PollingPoints" that are redeemable for the following small gifts:

Points	Reward
17,500	YouGov Tote Bag
20,000	YouGov T-Shirt
25,000	Restaurant.com \$25 Gift Certificate
30,000	Two Movie Tickets – AMC Theaters
30,000	Two Movie Tickets – Regal Entertainment Group Theaters
30,000	Two Movie Tickets – Cinemark Theaters
35,000	Darden Restaurants \$20 Gift Card
45,000	Diningdough.com \$25 Gift Certificate and 2 Fandango. com Movie Tickets
50,000	Web Camera – Microsoft LifeCam VX
60,000	Diningdough.com \$50 Gift Certificate and 2 Fandango.com Movie Tickets
70,000	Darden Restaurants \$50 Gift Card
80,000	iPod Shuffle
100,000	\$100

Each panelist receives between 500 and 5,000 points to complete a survey. As a policy, panelists who are invited to a particular survey but then identified as ineligible are provided incentives to remove the motivation for falsifying information. In general, survey reward policies and incentives are intended to be unattractive to professional survey takers but serve as a genuine token of appreciation for YouGov panelists.

**EXAMPLE OF YG SURVEY INVITATION**



Dear <NAME>,

You have been selected to share your opinions in a new YouGov survey.

To get started please click the button below. If you cannot view or click on the button, please copy and paste this address into your browser:

<Survey link>

<Start Now>

We know your time is valuable, and as a way of showing our thanks, you will be awarded at least 500 points when you complete this survey, and every emailed YouGov survey. The longer the survey, the more points you earn.

Notice our new name and look? Although the PollingPoint name is gone, rest assured that the heart of PollingPoint remains at YouGov. Your current points remain the same, and you'll continue to earn points for new surveys the same as before.

Thank for being an active member of the YouGov community!

Kelly Connor

YouGov

For more information on YouGov visit <http://today.yougov.com>. If you have any questions please read our membership rules and Privacy Policy.

To ensure reliable delivery please add [help.us@yougov.com](mailto:help.us@yougov.com) to your address book.

This email was intended for <name>@yougov.com. YouGov does not send unsolicited emails. You received this message because you signed up to receive polls from us. If you received this message in error or no longer wish to participate, please use the following link to unsubscribe: <https://isurvey-us.yougov.com/unsubscribe/>

Comments or concerns? Email [help.us@yougov.com](mailto:help.us@yougov.com), or write to:

YouGov • 285 Hamilton Avenue, Suite 200 • Palo Alto, CA 94301

## **FREQUENTLY ASKED QUESTIONS ON DATA SECURITY**

How do we prevent one person from completing surveys multiple times?  
Once a respondent completes a survey the "visa" assigned to that person is invalidated so the survey cannot be taken again.

Who will be maintaining the YouGov web site/servers?  
YouGov staff maintains the servers and web sites.

Who will have access to the data collected & back-up files?  
VP of Survey Operations and Statistical Analyst; Systems Administrators; and potentially the lead software developers under a need to know basis.

Are the data stored while the respondent is answering questions or is that data only stored at the end when the survey is submitted?  
The answers are stored each time a user submits a page.

How is confidentiality maintained during the transmission of data?  
No identifying personal information is transmitted while the survey is taken. The responses are identified only by an unique, coded "visa" that can be linked with the respondent's personal information only on the database server behind our firewall in a secure local zone.

Does YouGov monitor web sites visitation and e-mails?  
Internet access to ports is firewall limited. Off-site e-mail access is over SSL connections. Security logs are monitored for inappropriate activity.

When the subject submits their data to the web server information about the subject is of attached (IP address etc.); how will information be protected?  
Once acquired, respondents' data is only transmitted over internal networks behind firewalls or over encrypted VPN connections. Personally identifying information is not transmitted or stored together with survey answers.





# ESOMAR 28

## 28 QUESTIONS TO HELP ONLINE RESEARCH BUYERS



*The primary aim of these 28 Questions is to increase transparency and raise awareness of the key issues for researchers to consider when deciding whether an online sampling approach is fit for their purpose. Put another way, the aim is to help researchers to ensure that what they receive meets their expectations. The questions are also designed to introduce consistent terminology for providers to state how they maintain quality, to enable buyers to compare the services of different sample suppliers. Notes on the context of the questions explain why the questions should be asked and which issues researchers should expect to be covered in the answer.*

*These new questions replace ESOMAR's "26 Questions to help Research Buyers of Online Samples". ESOMAR has updated the text to recognize the ongoing development of techniques. While some of the questions remain constant, new questions have been added to incorporate new techniques and new technology in this area. In particular, this revision recognises the broad trend within the industry to build online samples from multiple sources rather than relying on a single panel.*

*It should be noted that these 28 Questions focus on the questions that need to be asked by those buying online samples. If the sample provider is also hosting the data collection you will need to ask additional questions to ensure that your project is carried out in a way that satisfies your quality requirements.*

*The 28 Questions complement ESOMAR's Guideline to Online Research which was revised in 2011 to add updated legal and ethical guidance and new sections on privacy notices, cookies, downloadable technology, and interactive mobile.*

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## COMPANY PROFILE

### 1. What experience does your company have in providing online samples for market research?

*Context: This answer might help you to form an opinion about the relevant experience of the sample provider. How long has the sample provider been providing this service and do they have for example a market research, direct marketing or more technological background? Are the samples solely provided for third party research, or does the company also conduct proprietary work using their panels?*

YouGov is an international, full-service online market research agency offering custom research, omnibus, field and tab services, qualitative research, syndicated products and market intelligence reports. Our mission is to supply a continuous, live stream of data and insight into what people are thinking and doing all over the world, so that companies, governments and institutions can better serve the people that sustain them.

Founded in the UK in 2000, YouGov is considered the pioneer of online market research. With our global panel of more than 3 million respondents, and offices in the United Kingdom, the United States, Europe and the Middle East, we offer our clients international results faster and more cost-effectively than traditional methods, with no compromise on quality.

## SAMPLE SOURCES AND RECRUITMENT

### 2. Please describe and explain the type(s) of online sample sources from which you get respondents. Are these databases? Actively managed research panels? Direct marketing lists? Social networks? Web intercept (also known as river) samples?

*Context: The description of the types of sources a provider uses for delivering an online sample will provide insight into the quality of the sample.*

YouGov maintains a highly engaged panel of respondents who have specifically opted in to participate in online research activities.

The value of our panel, as opposed to many other types of online sample sources, lies in having continuous access to a responsive audience ready-profiled on important demographic, attitudinal and lifestyle attributes. This enables us to execute a wide range of projects, from nationally representative samples to re-contact surveys with hard-to-find audiences.

### 3. If you provide samples from more than one source: How are the different sample sources blended together to ensure validity? How can this be replicated over time to provide reliability? How do you deal with the possibility of duplication of respondents across sources?

*Context: The variation in data coming from different sources has been well documented. Overlap between different panel providers can be significant in some cases and de-duplication removes this source of error, and frustration for respondents.*

Due to the size and strength of our own panel, YouGov does not often require additional sample. When we do include samples from external providers, it is only with the prior approval of our clients, and we will only use pre-identified partners who work to our approved standards. In such cases, our technology allows us to detect users taking the same survey with other providers, so we can remove them from the data as required.



4. Are your sample source(s) used solely for market research? If not, what other purposes are they used for?

*Context: Combining respondents from sources set up primarily for different purposes (like direct marketing for example) may cause undesirable survey effects.*

The YouGov panel is used solely for market research.

5. How do you source groups that may be hard to reach on the internet?

*Context: Ensuring the inclusion of hard-to-reach groups on the internet (like ethnic minority groups, young people, seniors etc.) may increase population coverage and improve the quality of the sample provided.*

YouGov actively recruits hard-to-reach respondents (such as younger people and those from ethnic minorities) via a network of partners with access to a wide range of online sources that cater to these groups. These sources have specific experience in recruiting these audiences for online activities.

These recruitment programmes include search engine optimization (SEO), affiliate networks, niche websites, and refer-a-friend programmes.

All recruitment sources, for hard-to-reach audiences or anyone else, are monitored to ensure that respondents are profiled, responsive, and engaged in the survey-taking experience.

6. If, on a particular project, you need to supplement your sample(s) with sample(s) from other providers, how do you select those partners? Is it your policy to notify a client in advance when using a third party provider?

*Context: Many providers work with third parties. This means that the quality of the sample is also dependent on the quality of sample providers that the buyer did not select. Transparency is essential in this situation. Overlap between different providers can be significant in some cases and de-duplication removes this source of error, and frustration for respondents. Providers who observe process standards like the ISO standards are required to give you this information.*

As noted above, we rarely need to supplement our sample with that from other sources. On those occasions when external sample is required, we always notify the client so that they can take part in the decision about when and how to proceed with a different supplier.

External sample partners are chosen by their ability to target hard-to-reach audiences, and by the quality and timeliness of their work. Our technology allows us to detect users taking the same survey with other providers, and thus avoid duplicate responders.

## SAMPLING AND PROJECT MANAGEMENT

7. What steps do you take to achieve a representative sample of the target population?

*Context: The sampling processes (i.e. how individuals are selected or allocated from the sample sources) used are the main factor in sample provision. A systematic approach based on market research fundamentals may increase sample quality.*

Using YouGov's proprietary sampling technology, we begin by framing quotas based upon the census or profile of the required population. This frame is the basis on which our sampling software controls the flow of members into each survey.

Our sampling system will randomly select from our available panel, and allocate to surveys according to the quotas set.

8. Do you employ a survey router?

*Context: A survey router is a software system that allocates willing respondents to surveys for which they are likely to qualify. Respondents will have been directed to the router for different reasons, perhaps after not qualifying for another survey in which they had been directly invited to participate, or maybe as a result of a general invitation from the router itself. There is no consensus at present about whether and how the use of a router affects the responses that individuals give to survey questions.*

YouGov's proprietary sampling software includes a router. This removes the potential for self-selection on surveys, and increases our ability to deliver lower incidence samples within a short time frame.



9. If you use a router: Please describe the allocation process within your router. How do you decide which surveys might be considered for a respondent? On what priority basis are respondents allocated to surveys?

*Context: Biases of varying severity may arise from the prioritisation in choices of surveys to present to respondents and the method of allocation.*

Panelists receive an invitation email containing a survey link. When they access the link the router will check against quotas on all live surveys and allocate them to a survey for which they qualify. We can manually control prioritisation (for example to ensure that a particularly urgent client survey can meet quotas in the necessary time frame), but allocation is predominantly determined by the quotas defined in the frame for each survey.

If, following more detailed screening, a respondent doesn't qualify for the survey to which they are allocated they will be returned to the router and allocated to another survey.

10. If you use a router: What measures do you take to guard against, or mitigate, any bias arising from employing a router? How do you measure and report any bias?

*Context: If Person A is allocated to Survey X on the basis of some characteristic then they may not be allowed to also do Survey Y. The sample for Survey Y is potentially biased by the absence of people like Person A.*

In any case where we consider there could be a potential for bias resulting from use of a router, we will revert to a manual invitation process. All surveys running on the router will have sampling controls on all variables likely to affect the results.

11. If you use a router: Who in your company sets the parameters of the router? Is it a dedicated team or individual project managers?

*Context: It may be necessary to try to replicate your project in the future with as many of the parameters as possible set to the same values. How difficult or easy will this be?*

All parameters are set and controlled by the panel team within our Operations department. These are only changed following explicit consultation with all affected parties.

12. What profiling data is held on respondents? How is it done? How does this differ across sample sources? How is it kept up-to-date? If no relevant profiling data is held, how are low incidence projects dealt with?

*Context: The usefulness to your project of pre-profiled information will depend on the precise question asked and may also depend on when it was asked. If real time profiling is used, what control do you have over what question is actually asked?*

We collect over 500 data points on panelists through the initial opt-in process, in ongoing profiling efforts, and from survey responses. Basic profile information is stored for all panelists, with less frequently used attributes covered to varying degrees. Collection of this long tail of opinion and behavioural data is typically driven by client demand.

Beyond this, we have a proprietary system that automatically updates panelist demographics from survey data (typically every 3-6 months) depending on the relative frequency with which particular data points are likely to change.

13. Please describe your survey invitation process. What is the proposition that people are offered to take part in individual surveys? What information about the project itself is given in the process? Apart from direct invitations to specific surveys (or to a router), what other means of invitation to surveys are respondents exposed to? You should note that not all invitations to participate take the form of emails.

*Context: The type of proposition (and associated rewards) could influence the type of people who agree to take part in specific projects and can therefore influence sample quality. The level of detail given about the project may also influence response.*

In the majority of cases, respondents are emailed a generic survey invitation, whether invited directly to a study or via a router. Once they are allocated to a particular survey and have passed any additional screening, they are immediately informed of the topic, estimated length and their reward for taking part.

For qualitative studies respondents are given more information in the invitation itself on the topic and nature of the survey, and the amount of time they will have to make available to participate.



**14. Please describe the incentives that respondents are offered for taking part in your surveys. How does this differ by sample source, by interview length, by respondent characteristics?**

*Context: The reward or incentive system may impact on the reasons why people participate in a specific project and these effects can cause bias to the sample.*

Panelists are typically motivated by two things:

- Points for completing a survey (i.e., rewards)
- Understanding the impact of their contribution (i.e., "having their say")

YouGov's incentive programme is points-based. Point values are determined by survey length and are allocated upon survey completion. Respondents accumulate points for completing surveys and are able to redeem these either for entries into prize draws with a wide range of prizes or towards a cash payment.

In addition, we also share key survey results and actual data from selected surveys, and are constantly developing ways to enhance this feedback loop. Results are posted on the panelist areas of the website, and regular newsletters are used to highlight media coverage of YouGov survey results.

**15. What information about a project do you need in order to give an accurate estimate of feasibility using your own resources?**

*Context: The "size" of any panel or source may not necessarily be an accurate indicator that your specific project can be completed or completed within your desired time frame.*

The information we need stems from the client's requirements:

- Who do they wish to survey, in terms of demographics, behaviours and/or attributes? This will enable us to estimate incidence and develop quotas.
- What do they want to know? This will enable us to design the survey(s) to meet their needs and understand the length and nature of the survey(s) we will be running.
- When do they want to know it? Defining an end date will allow us to manage the client's survey(s) as part of the suite of fieldwork we are running, to ensure optimum response.

**16. Do you measure respondent satisfaction? Is this information made available to clients?**

*Context: Respondent satisfaction may be an indicator of willingness to take future surveys. Respondent reactions to your survey from self-reported feedback or from an analysis of suspend points might be very valuable to help understand survey results.*

YouGov asks for satisfaction scores from every panelist at the end of a survey experience, both explicit (using five specific questions) and implicit (using response metadata). These data are used internally to evaluate and improve the YouGov experience for panelists.

YouGov also carries out its own research on research, exploring in more detail what makes for a good respondent experience, identifying drivers of – and developing solutions for – respondent fatigue.

**17. What information do you provide to debrief your client after the project has finished?**

*Context: One should expect a full sample provider debrief report, including gross sample, start rate, participation rate, drop-out rate, the invitation/contact text, a description of the field work process, and so on. Sample providers should be able to list the standard reports and metrics that they make available.*

Upon request, we will happily provide clients with disposition reports that contain email metrics (such as start and completion rates, and so on), invitation examples, and any other details relating to the project fielding.





## DATA QUALITY AND VALIDATION

18. Who is responsible for data quality checks? If it is you, do you have in place procedures to reduce or eliminate undesired within survey behaviours, such as (a) random responding, (b) illogical or inconsistent responding, (c) overuse of item non-response (e.g. "Don't Know") or (d) speeding (too rapid survey completion)? Please describe these procedures.

*Context: The use of such procedures may increase the reliability and validity of the survey data.*

We have several techniques available to us to ensure that clients receive the highest quality data on which to base analysis. Specifically, we have mechanisms to identify and remove:

- Speeders
- Those that fail trap questions
- Habitual non-responders

The suite of quality checks will be defined with the client at the start of a project to ensure they align with any existing quality standards. In addition to removing fraudulent responses from the survey data, those panellists that fail these tests are marked in the database and ultimately removed from the panel should they turn out to be consistent offenders.

19. How often can the same individual be contacted to take part in a survey within a specified period whether they respond to the contact or not? How does this vary across your sample sources?

*Context: Over solicitation may have an impact on respondent engagement or on self-selection and non-response bias.*

On average, panellists complete a survey no more than once per week, a threshold that ensures continued engagement without over-burdening panellists with too many surveys.

We monitor and control the number and frequency of invitations and completions both at an overall level and within subject areas.

20. How often can the same individual take part in a survey within a specified period? How does this vary across your sample sources? How do you manage this within categories and/or time periods?

*Context: Frequency of survey participation may increase the risk of undesirable conditioning effects or other potential biases.*

Controls are set on a study-by-study basis. We can control to whom invitations are sent based on previous studies they have completed, and within whatever time frame is specified.

21. Do you maintain individual level data such as recent participation history, date of entry, source, etc., on your survey respondents? Are you able to supply your client with a project analysis of such individual level data?

*Context: This type of data per respondent including how the total population is defined and how the sample was selected and drawn, may increase the possibilities for analysis of data quality.*

Though not generally relevant to clients, we do store additional data on the effectiveness of our recruiting partners. We can evaluate the quality of a source by understanding the longevity, response frequency, and participation history at an individual and source level.



22. Do you have a confirmation of respondent identity procedure? Do you have procedures to detect fraudulent respondents? Please describe these procedures as they are implemented at sample source registration and/or at the point of entry to a survey or router. If you offer B2B samples what are the procedures there, if any?

*Context: Confirmation of identity can increase quality by decreasing multiple entries, fraudulent panellists etc.*

YouGov applies a number of checks to ensure the quality of survey data, including, for example, trap questions that test panellist responses against pre-collected demographic data.

The suite of quality checks available allow us to detect fraudulent responses as well as duplicate respondents, and where panellists fail quality checks they are marked in the database as suspect and are removed from the panel if they turn out to be consistent offenders.

## POLICIES AND COMPLIANCE

23. Please describe the 'opt-in for market research' processes for all your online sample sources.

*Context: The opt-in process indicates the respondents' relationship with the sample source provider. The market generally makes a distinction between single and double opt-in. Double opt-in refers to the process by which a check is made to confirm that the person joining a panel or database wishes to be a member and understands what to expect (in advance of participating in an actual survey for a paying client).*

YouGov uses a double opt-in procedure across all panels. At the point of the first opt-in panellists are asked to confirm they are happy to accept the Terms and Conditions of membership. Only once they've agreed to these will they be sent a confirmation email and a link to double opt-in and activate their panellist account.

24. Please provide a link to your Privacy Policy. How is your Privacy Policy provided to your respondents?

*Context: Not complying with local and international privacy laws might mean the sample provider is operating illegally. An example privacy policy is given in the ESOMAR Guideline for Online Research.*

YouGov takes data protection and panellist privacy very seriously. Our Privacy Policy can be found at <http://www.yougov.co.uk/privacy-policy> and covers key topics including:

- Use of personally identifiable information
- Disclosure of information
- Data security





**25. Please describe the measures you take to ensure data protection and data security.**

*Context: The sample provider usually stores sensitive and confidential information on panellists and clients in databases. These data need to be properly secured and backed-up, as does any confidential information provided by the client. The sample provider should be able to provide you with the latest date at which their security has been evaluated by a credible third-party.*

All panellist data, personally identifiable or otherwise, is stored on UK-based servers that are maintained behind secure firewalls, IDS and Threat Management appliances and located in a site that is certified to the latest ISO standard (ISO/IEC 27001:2005). Personally identifiable information is stored separately from all profile data as a means of further securing panellist data.

Access to the data is limited to only those with direct responsibility for panel management and maintenance. In addition, all employees are required to abide by our Privacy Policy and are subject to disciplinary action if it is violated.

**26. What practices do you follow to decide whether online research should be used to present commercially sensitive client data or materials to survey respondents?**

*Context: There are no foolproof methods for protecting audio, video, still images or concept descriptions in online surveys. In today's social media world, clients should be aware that the combination of technology solutions and respondent confidentiality agreements are "speed bumps" that mitigate but cannot guarantee that a client's stimuli will not be shared or described in social media.*

Though there are no flawless methods of protecting in-survey content, YouGov can offer both general and specific protection to web-based client material. First, all YouGov panellists are subject to clear restrictions on the re-use of material by virtue of their agreement to our Terms and Conditions (see <http://yougov.co.uk/panel/terms-and-conditions/>). Second, to augment this general protection, YouGov can limit the lifetime of any link to audio, video and other content, such that it expires after a certain period of time, and cannot thereafter be accessed.

**27. Are you certified to any specific quality system? If so, which one(s)?**

*Context: Being certified may require the supplier to perform tasks in a pre-determined manner and document procedures that should be followed.*

YouGov's third party data centre provider is certified to the following standards, providing industry-approved protection to all YouGov data:

- ISO 9001:2008
- ISO/IEC 27001:2005
- Payment Card Industry Data Security Standard v2.0
- Member of the British Polling Council

**28. Do you conduct online surveys with children and young people? If so, do you adhere to the standards that ESOMAR provides? What other rules or standards, for example COPPA in the United States, do you comply with?**

*Context: The ICC/ESOMAR International Code requires special permissions for interviewing children. These are described in the ESOMAR Online Research Guideline. In the USA researchers must adhere to the requirements of the Children's Online Privacy Act (COPPA). Further information on legislation and codes of practice can be found in Section 6 of ESOMAR's Guideline for Online Research.*

Panel registration is limited to those over 16 years of age, in line with MRS guidelines.

In cases where our research seeks to understand the views of those under the age of 16, YouGov seeks permission from the parent or guardian when screening our own panellists, and ensure all contact is via the parent or guardian and that they are fully aware of the nature of the research at all times.



## GUIDANCE ON PROFESSIONAL STANDARDS

Maintaining consumer trust is integral to effective market, social and opinion research. ESOMAR through its codes and guidelines promotes the highest ethical and professional standards for researchers around the world.

The ICC/ESOMAR Code on Market and Social Research, which was developed jointly with the International Chamber of Commerce, sets out global fundamentals for self-regulation for researchers. It has been undersigned by all ESOMAR members and adopted or endorsed by more than 60 national market research associations worldwide.

The ESOMAR Guideline on Guideline on Online Research is of particular relevance to researchers using online panels and should be read in conjunction with these questions for more explanation of the legal and professional responsibilities of researchers who are collecting and analysing online research data.

In addition, ESOMAR has issued the following guidelines to provide more detailed advice on how to address the legal, ethical, and practical considerations of conducting specific areas of research:

- Guideline on Social media research
- Guideline for Conducting mobile research
- Guideline on Online research
- Guideline on Distinguishing market research from other data collection activities
- Guideline on Passive data collection, observation and recording
- Guideline on Interviewing children and young people
- Guideline on Customer satisfaction studies
- Guideline on Mystery shopping
- Guideline on How to commission research
- ESOMAR/WAPOR Guide to opinion polls

There are also two ISO standards which relate to market research:

ISO Standard 26362 – Access panels in market, opinion and social research - Vocabulary and service requirements

ISO 20252 - Market, opinion and social research - Vocabulary and service requirements

These documents contain useful definitions and explain process quality standards for access panels and research projects. They explain good practice and the information that should be provided to clients. They can be purchased from the International Standards Organisation <http://www.iso.org/iso/home.html>

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## Appendix G

### **Main Reasons and Other Reasons Survey Respondents Gave for Buying an NBA 2K Video Game<sup>1, 2</sup> (Questions A1 and A2)**

*Base: All Survey Respondents*

A1. What were the main reasons why you bought an NBA 2K video game?

**IF A1 NOT "DON'T KNOW":**

A2. What were the other reasons, if any, why you bought an NBA 2K video game?

- 
- 1 None of the survey respondents mentioned LeBron James, Danny Green, Tristan Thompson, or tattoos when asked their main reasons and their other reasons for buying an NBA 2K video game.
- 2 Note, Question A2 was "Not applicable" if the survey respondent said "Don't know" when asked their main reasons for buying an NBA 2K video game in Question A1.

ID	A1. Main Reasons	A2. Other Reasons
444049565	My friends had it, and they wanted me to get it.	It was on sale.
1011096065	I like basketball.	None.
1011108231	I recommend a friend.	I've always liked basketball and more in video games.
1012036715	My son.	Don't know.
1012500299	The newest out at the time.	I love this series.
1012885771	I love the gameplay, improvements, and graphics.	Don't know.
1012941945	To play a basketball game, and pass some free time.	Don't know.
1012967081	Don't know.	Not applicable.
1012981035	Because the Brooklyn Nets will have a good team, and they are my favorite.	Not really.
1013004743	I like it.	Don't know.
1013023093	Used and cheap.	IDK.
1013092601	My kids love the game.	They like to play it.
1013218811	I love basketball, and it's very realistic.	Don't know.
1013273349	I like the sport and like to play these games.	None.
1013275717	A gift.	A request.
1013300767	It's a great game to play, and I love this game.	Great game, good quality, excellent graphics.
1013327739	It was fun and entertaining for me, and I am very much interested.	Everyone was talking about it at the time.
1013380513	My son likes basketball and is a fan of a lot of the players, and he can play with other people.	We like to watch basketball games.
1013407837	Don't know.	Not applicable.
1013412817	Me and my family like playing with each other.	The basketball players in the game.
1013442719	I love it.	Don't know.
1013546217	To play with my friends and enjoy another year of 2K.	Another game to play.
1013598977	I really love basketball. It's the best. My son plays.	The gameplay.
1013672909	For fun.	For fun.
1013698155	Don't know.	Not applicable.

ID	A1. Main Reasons	A2. Other Reasons
1013698255	I love playing it with my son and my husband.	For entertainment.
1013698961	My friends wanted me to play.	Don't know.
1013723655	To play it! I like basketball.	I enjoy it with friends.
1013723949	I wanted to play a game as the Cleveland Cavaliers.	It was used and cheap.
1013734037	It's good.	Unique.
1013743963	My son wanted it.	I wanted to try it out because I hadn't tried the other ones.
1013746805	My sons wanted it.	None.
1013747133	It's an excellent game.	So unique.
1013747159	List of studios. Website. 2K.com. 2K Games, Inc. (commonly referred to as 2K) is an American video game publisher based in Novato, California. The company and its 2K Sports division were founded in January 2005 by Christoph Hartmann, David Ismailer, Jason Argent and Greg Thomas, as a subsidiary of Take-Two Interactive.	Nothing.
1013748939	I am a big fan of the game.	Don't know.
1013749185	Don't know.	Not applicable.
1013750413	I enjoyed past games.	Don't know.
1013811931	I love NBA as a sport, and I thought if I couldn't play the sport physically as a person, I could as well play it on a video game to catch my fun.	To play with family and friends, and also to get used to some stunts being done by the players.
1013826999	Because it's the best basketball game currently.	To play with online or real-life friends.
1013830109	I like it.	None.
1013837907	I like it.	Not sure.
1013877735	My family and I like to keep up with the latest players.	Better graphics from the previous season.
1013903987	I like basketball.	Don't know.
1013916811	I like NBA 2K.	It is a very competitive and fun game.
1013923235	My love for basketball.	Don't know.
1013923431	It is a very good game to play.	Don't know.
1013927191	Don't know.	Not applicable.

ID	A1. Main Reasons	A2. Other Reasons
1013927355	As a gift.	As a gift.
1013941447	I love this series of games. Very realistic.	Great graphics.
1013942327	To start gaming.	No.
1013952963	My friends got it, so I bought it.	It was on sale.
1013958767	It's good.	Very perfect.
1013964063	It's fun.	It's a good game.
1013979353	A way to pass time during the last 10 minutes of my lunch break.	It's fun and easy to play.
1013982303	Because I like sports games, and this one is one of my favorites.	Don't know.
1013995933	Don't know.	Not applicable.
1014005389	For my husband. He loves these games, and I participate with him sometimes.	It's fun to play. Cool to pick your own player or pick your favorite.
1014006009	They were bought for my (now) ex-husband.	No other reasons. He was the gamer.
1014006033	My kids asked for them.	They were on sale.
1014006853	I love the 2K series and buy it every year.	Because it is the best NBA experience in video games.
1014017539	I love basketball, and my biggest heroes are NBA players.	The graphics are awesome.
1014017857	I love basketball.	I want to own all sports games.
1014019813	I bought them as a fan and to play with family members.	Don't know.
1014027487	My son wanted it.	My son wanted it.
1014034469	To have fun.	It was on sale.
1014034623	To play the video game that I enjoyed.	No more.
1014046665	My grandson wanted it.	Don't know.
1014047091	My husband wanted them as gifts.	Don't know.
1014067899	Don't know.	Not applicable.
1014068103	I get distracted in my free time. It provides fun.	To play with my friends.
1014073279	Don't know.	Not applicable.
1014073981	I love playing the NBA games.	To play with my friends.
1014078331	For my kids.	None.
1014080439	It was asked for, and it is a cool game with great graphics.	Don't know.
1014088053	I love basketball, and it's the best gameplay.	The best gameplay.



ID	A1. Main Reasons	A2. Other Reasons
1014088173	I like NBA 2K.	I needed another game to play.
1014088231	I like the game.	It was on TV, and I like it.
1014103319	I'm a big NBA fan and had enjoyed past games in the series.	Don't know.
1014116085	Lack of options.	None.
1014116103	I like it.	For the graphics.
1014133427	The best basketball game.	EA sucks.
1014133475	Don't know.	Not applicable.
1014133915	Because I'm a fan of the NBA sport.	High playability.
1014133951	I enjoy them.	Don't know.
1014147005	Don't know.	Not applicable.
1014147095	It was on sale in the PlayStation Store.	I like playing basketball. I wish it was a college basketball game, though.
1014147433	My son wanted it.	Don't know.
1014149861	I bought the game because it was interesting, intriguing, fun and enlightening.	It was quite affordable.
1014158639	Don't know.	Not applicable.
1014158739	Past fun experience.	To play with my friends.
1014169617	Don't know.	Not applicable.
1014181047	The highest-rated NBA game.	To try something different and new. A good price.
1014190245	It's entertaining, fun, and I like the graphics. I like the challenge, too.	Stress relief.
1014199877	I bought it for my husband.	No other reasons.
1014202485	For the storyline in the game itself. It's compelling. It allows me to go to the next level. I like the graphics in the games, and I am a fan of some of the players themselves.	It's the latest game out, and I want to have it. Plus, I have the series.
1014215109	Don't know.	Not applicable.
1014218611	I love the game.	It's fun.
1014225521	Don't know.	Not applicable.
1014226771	Basketball.	N/A.
1014227253	Don't know.	Not applicable.
1014230483	I was bored.	None.



ID	A1. Main Reasons	A2. Other Reasons
1014236981	I enjoy these types of games.	Previous experience with the brand.
1014239515	Don't know.	Not applicable.
1014242889	Don't know.	Not applicable.
1014253527	For fun and out of habit.	The roster updates.
1014260547	The best experience and graphics. Highly addictive.	Socialization, a fun group activity that can be enjoyed solo as well.
1014261373	Don't know.	Not applicable.
1014262655	To play with my person at the time.	Because I enjoyed basketball games as a kid.
1014262671	Great graphics, real action, realistic players.	It's fun, lifelike.
1014263615	To see if I still enjoyed basketball games.	To have something potentially fun to play.
1014265023	Story mode.	Great.
1014270649	It's fun.	A gift.
1014273167	I enjoy basketball and the NBA.	Don't know.
1014273839	It came with the new Xbox when I bought it. It was a sports package, including Madden 20 also.	I love basketball. I wish there was a college basketball game again for the newer systems, as the college football game.
1014281563	Because it's the best out.	Don't know.
1014282529	Interested in creating a Bulls team that's actually capable of winning a championship.	Don't know.
1014293185	I used to like playing. I liked the gameplay and players.	Don't know.
1014303017	Because I'm a big fan of the NBA.	Don't know.
1014303193	It was on sale for \$1.99 and my friend plays it.	Don't know.
1014303215	I like basketball.	Nope.
1014310177	My friends told me about it.	Don't know.
1014311797	I bought it as a present for my son.	None.
1014331079	I love them.	Don't know.
1014339255	I love the gameplay over NBA Live, and the servers don't compare.	I do every year as a tradition.
1014341407	I love basketball.	None.
1014349159	The graphics, player movement, and great overall gameplay.	A great game to play.

ID	A1. Main Reasons	A2. Other Reasons
1014355785	It was fun and had good graphics.	The cost – on sale.
1014363229	I like the version that was made back in 2015.	Don't know.
1014371289	The graphics are good.	I love sports games.
1014379537	Reviews on game websites.	Existing game.
1014382487	To hoop.	To hoop on people.
1014410689	For MyTEAM mode. Also, so I can play with the best players in the league.	Don't know.
1014412201	My son keeps asking for them.	None, because the game is awful.
1014412219	I love sports.	Great, impressive games.
1014431323	It's a great game, and I love basketball.	Easy game.
1014435785	I like basketball.	My friend has one.
1014435881	Don't know.	Not applicable.
1014436715	For my kid.	The quality.
1014440049	I like it.	Don't know.
1014458789	It's fun.	Don't know.
1014460137	Entertaining.	Don't know.
1014471089	It's fun.	None.
1014482399	Don't know.	Not applicable.
1014484047	I enjoy basketball.	Don't know.
1014495141	It's fun.	Don't know.
1014512477	I like the sport, and my kids like it very much.	It's very innovative and fun to play.
1014514703	Don't know.	Not applicable.
1014515933	As a gift.	Don't know.
1014520319	I wanted to try a new game.	It was free to veterans.
1014533637	For the fun of it.	To be updated with the latest games.
1014546105	So I could play it.	Don't know.
1014552235	It is very popular. All of my friends play it, and I wanted to learn.	Don't know.
1014570129	The main reason I bought an NBA 2K game was because my son likes to play them.	Don't know.
1014574239	I love the graphics.	Because my daughter wanted to play.
1014581429	I love basketball.	To enjoy it.

ID	A1. Main Reasons	A2. Other Reasons
1014581889	It stirred my emotions.	Don't know.
1014593425	It's a great series for basketball.	I like basketball, and it's a good series to play.
1014594161	Because I'm a fan of basketball, and mostly because my friends play it, too.	Don't know.
1014599669	I like sports.	The gameplay.
1014600737	To play with my son.	I enjoy the game of basketball, the competition.
1014611531	Good quality experience with the games.	Good graphics.
1014622461	CAREER mode, the realism.	Don't know.
1014622987	It was only \$0.99 on the Nintendo Switch store.	My brother plays NBA 2K.
1014623099	My husband and I play. He likes it.	None.
1014660813	For my son.	My son liked it.
1014669895	I wanted an NBA basketball game.	Don't know.
1014670635	I love basketball, and 2K allows me to have a real feeling of play and a fantasy career.	Don't know.
1014694675	I think it's a very interesting game. It makes me addicted.	I have some friends playing it.
1014727431	Action, my favorite players, fun.	Easy to play, challenging, fun.
1014745201	For my husband.	On sale.
1014746137	I like basketball.	I've been playing for years.
1014757615	I was invested in the MyCAREER and MyLEAGUE modes.	To play virtual basketball.
1014774301	Don't know.	Not applicable.
1014774441	I love the graphics and how it plays, the players. Your decision aims the direction on how the game goes.	Very fun to play, and is relaxing.
1014782433	I wanted to play a dang basketball game.	Nah, I just wanted to play a basketball game.
1014808253	Great game.	Don't know.
1014816115	The cover, and because I own the previous version.	Don't know.
1014816135	From the most expert players to those who are more casual, the association between sports video games is quite clear.	From the most expert players to those who are more casual, the association between sports video games is quite clear.
1014819451	It's a game favorite for me.	The games of the sports.

ID	A1. Main Reasons	A2. Other Reasons
1014823957	Because I love basketball, and I play it every day.	Because it makes [me] feel like I'm really playing in real life.
1014908311	I love basketball.	It only gets better as the years go on.
1014927063	Children play it.	A Christmas present.
1014944445	Don't know.	Not applicable.
1014949429	For my son.	Just for my son.
1014949621	I like basketball, and enjoyed playing those games as a teen. I wanted to see how the newer games were.	I found it for a good price.
1014960411	Basketball.	N/A.
1014968933	I love basketball.	To play against my brother.
1014985713	Don't know.	Not applicable.
1014994969	I buy it every year due to playing a lot throughout the season. It's high-quality and respects the sport, and is enjoyable to play with various difficulties offered to the user.	I like the NBA.
1015006751	The reason behind buying an NBA 2K video game is that it has high resolution and more authentic game.	Don't know.
1015008479	Expecting new material.	Fear of missing out.
1015012381	It's the newest title, and I wanted to play an NBA 2K game.	My friends have it.
1015015449	I wanted to play it.	It's fun.
1015064117	It's one of my favorite games to play.	All my friends play it.
1015079435	The graphics.	The game modes.
1015087059	Because basketball is one of my favorite sports, and I love this game. I always use it.	Don't know.
1015091727	I love the PARK/NEIGHBORHOOD mode. It's probably my favorite game to play with friends. I also enjoy the MyLEAGUE feature. It's a way better simulator than Madden's franchise mode.	I usually buy one sports game each year, and I am not satisfied with the direction Madden is heading in, so I chose 2K this year.
1015093805	My kids like to play NBA games.	Don't know.
1015094413	Excellent gameplay and graphics.	Don't know.
1015099853	It looked like fun when I saw it.	None.
1015101571	For competition.	To pass time.

ID	A1. Main Reasons	A2. Other Reasons
1015104683	Don't know.	Not applicable.
1015111853	To play with my fiancé. Good graphics.	Good graphics.
1015124873	The graphics, for the franchise mode, and the dunk contest.	N/A.
1015165451	I love it.	Don't know.
1015169743	I love sports.	Don't know.
1015179749	For my daughter. She likes the games.	That's it.
1015186961	Don't know.	Not applicable.
1015212257	Good graphics.	Don't know.
1015235683	Not sure.	Not sure.
1015241237	I started playing Madden and loved it. I am much more a basketball fan, so I bought NBA 2K to play when bored.	For fun.
1015241961	It was a gift.	Don't know.
1015241963	My kids love it.	It's fun.
1015248481	I love basketball.	They have some of the best graphics.
1015267581	To play with my kids.	My kids love basketball.
1015267709	Because I love basketball.	Because it's amazing.
1015272049	My son and husband wanted it.	It looked fun.
1015277607	Very good game. Good graphics.	Variety.
1015296999	It came with my PlayStation I bought for deployment.	To play with friends.
1015299589	I love basketball games.	The LA Lakers are my fav team.
1015314847	Don't know.	Not applicable.
1015402303	I buy it every year now because I love the graphic designs and how different. They make a different player be the cover for each year. I love to watch basketball.	Don't know.
1015411807	The graphics.	The price.
1015420239	The main reason is to create an interactive experience in which I create and play.	To enjoy the action and feel entertained.
1015433763	My son wanted it.	Christmas.
1015463475	Don't know.	Not applicable.
1015476563	My son wanted it.	My son's friends had it and recommended it.
1015483957	I love to make my player and play MyCAREER.	I love basketball.

ID	A1. Main Reasons	A2. Other Reasons
1015517111	For fun and playing in the house.	Something to do.
1015517569	To be able to match the skills of the real NBA players.	To add to my NBA game collection.
1015590547	It was a gift for my significant other.	It was a top-playing game, and we have prior versions.
1015611691	I like it.	Don't know.
1015629143	A really good tech product to play and own. Fun to play online and against people from all around. Buy at a good price.	I love to collect these type of sport games. Nonstop fun. Very enjoyable to own. I love sports games.
1015631339	For my spouse.	Don't know.
1015655275	My fiancé wanted it.	Don't know.
1015656437	It's a fun game.	Don't know.
1015679025	On clearance.	I like sports games like Madden.
1015679831	I liked the graphics and the ability to play full seasons in the game.	A good price. To play with my kid.
1015710493	For a child.	N/A.
1015722107	Don't know.	Not applicable.
1015722933	Don't know.	Not applicable.
1015723909	My kid wanted it.	Don't know.
1015753545	Because I wanted it.	Don't know.
1015810613	Don't know.	Not applicable.
1015818457	I had friends who played it.	It was fun.
1015827751	I'm a fan of basketball, and I love playing the game as my favorite players.	It's a fun way I can play against my son, who is also a basketball fan.
1015839153	I bought the games as gifts for my son.	None.
1015853209	My kids like to play. More fun.	Better than fighting games.
1015864951	I like the graphics and the gameplay.	I like the teams.
1015940357	I love basketball.	I bought EA also.
1015966237	The most prominent NBA basketball game available.	None that I remember.
1015983261	Don't know.	Not applicable.
1015992257	Fun.	Don't know.
1016018711	I wanted the newest version.	Better graphics, and my friends have it.
1016027731	Don't know.	Not applicable.
1016034327	I heard from friends that I'd like it, checked reviews, and bought it.	I love basketball. I love video games.

ID	A1. Main Reasons	A2. Other Reasons
1016055103	I'm an NBA fan.	Don't know.
1016055653	I really liked the in-depth franchise mode, and the gameplay, while never perfect, was always enjoyable overall. I also really liked the MyPLAYER mode, before the microtransactions got too bad in 2K18.	I liked the professional, adaptive commentary – how they would actually be able to say your custom characters' names. The animation and adaptable player development, the gameplay sliders, the player customization, and the music. And basketball's my sport. I'm an NBA fan.
1016124699	It was a game my kids and boyfriend always want.	No other reason.
1016143805	Because I like basketball and the game is fun.	Don't know.
1016143895	The only basketball game available. Also, not that bad of game. I stopped buying at NBA 2K19, because the game went downhill.	Don't know.
1016143991	For its publication and all that it offers.	Because I like basketball.
1016148235	I liked NBA 2K13.	Don't know.
1016189235	I love basketball.	The best basketball game available.
1016254399	I'm a basketball fan.	Don't know.
1016262261	I like basketball, and they're challenging.	I wanted entertainment.
1016283959	I like basketball.	Don't know.
1016296103	I really liked the poster of the NBA 2K video game in the store, and I ended up buying it.	It was a good price.
1016320945	It's fast and very fun.	The game has strategy and it's very playful.
1016332183	It is the best basketball game around.	Don't know.
1016334255	For my teenage sons.	To play myself.
1016339475	I loved an older version of the game I had.	Don't know.
1016339555	To have fun.	Trades and to follow my team.
1016345871	A gift for my son.	Don't know.
1016346009	To play with friends and family, on and offline.	No other reasons.
1016388555	Compared with NBA LIVE, I prefer 2K because of the gameplay, graphics and better AI.	The visual concepts, customization.

ID	A1. Main Reasons	A2. Other Reasons
1016388921	It looked fun.	Don't know.
1016390301	I have been playing 2K since the days of the Dreamcast and have been a loyal follower of the brand for every release year since. I usually wait for the Xmas sale and buy in December.	It is better to play then NBA Live. The gameplay is smoother, and the graphics are better.
1016415563	It's realism, sharpness and the best players included.	The price.
1016415907	It's fun and entertaining.	To pass time, compete with friends.
1016417009	Don't know.	Not applicable.
1016423271	I find it quite fun and entertaining.	I love that kind of video game.
1016428387	Don't know.	Not applicable.
1016437171	To play.	I like the game.
1016477355	I like basketball, and I've bought every single release.	It's the only good basketball game.
1016481651	Don't know.	Not applicable.
1016481757	Not sure.	Not sure.
1016498681	Don't know.	Not applicable.
1016498937	I enjoy playing basketball, so this game is enjoyable to play.	I enjoy playing basketball.
1016507811	My son wanted it.	Don't know.
1016518171	I like basketball, and my friends were playing it, so I wanted to check it out.	It seemed fun.
1016525401	I bought it for my son, and also for a Christmas gift for my nephew.	I love basketball and love to play this video game with my son, his friends and my brother when we have family night.
1016525781	I love basketball and playing it.	I like the graphics and gameplay.
1016554999	Don't know.	Not applicable.
1016555361	Because it has always been fun. Good competition.	Don't know.
1016565443	To play against friends online.	The MyTEAM functions can be fun.
1016569135	Great game.	I love it.
1016570297	My son wanted it.	A Christmas gift for my son.
1016574253	My love of the game.	The price.
1016574353	I'm a fan of basketball.	Don't know.
1016575127	I like basketball.	N/A.



ID	A1. Main Reasons	A2. Other Reasons
1016599975	It was mentioned how great the video game was.	I needed to see the greatness of this game.
1016602911	I bought this game because I love this franchise and wanted the latest installment. I also liked how this one had mini-games and that you could buy items.	Don't know.
1016609359	I love basketball, and it's the best option.	The updated roster.
1016609869	Don't know.	Not applicable.
1016609979	It's cool.	I like basketball.
1016610889	Don't know.	Not applicable.
1016613477	I bought it for my son as a gift.	No other reason.
1016613521	Don't know.	Not applicable.
1016613561	Franchise mode, CAREER mode.	It was later in the year of release and cheap. I enjoy 2K games as well.
1016613737	I love sports games, and NBA 2K is a fun game.	To enjoy in downtime.
1016632249	My kids love the sport.	I enjoy watching basketball.
1016649681	I like basketball, and my friend had the game, too.	See my first answer.
1016650175	The best option available.	I prefer 2K games over EA titles. I miss NHL and MLB 2K games.
1016656703	Because I enjoy basketball.	Playing with friends.
1016662333	It's fun to play.	My kids like it.
1016662371	I love basketball. NBA is my favorite. Memphis Grizzlies.	I love basketball. NBA is my favorite. Memphis Grizzlies.
1016687093	MyCAREER mode.	Don't know.
1016687193	I wanted to play an NBA game with the Miami Heat.	Don't know.
1016693837	My son wanted it.	N/A.
1016707499	I love basketball, and it was the only viable basketball game on the market.	No.
1016714881	My kids.	Don't know.
1016722919	Everybody else was playing it.	It looked fun.
1016744763	I like sports video games, and this was recommended.	I got a good deal.
1016744979	I loved it.	Don't know.
1016760159	Don't know.	

ID	A1. Main Reasons	A2. Other Reasons
1016770373	I like and play basketball, and I wanted the latest and best basketball video game.	To play with my friends.
1016770397	Good graphics and fun to play.	Don't know.
1016770573	I like basketball.	Don't know.
1016779653	Updated rosters from the previous version I owned (2K 12). I typically wait as long as possible between editions.	The lack of a college basketball video game.
1016783869	Because I like this game.	I like the graphics.
1016784133	To add to the collection.	I wanted to play.
1016798243	My son plays this game frequently online with friends.	It is a popular game for teen boys.
1016816121	My son wanted it.	None.
1016861389	Because I'm a basketball fan, and this version seems great to me.	Because I'm a basketball fan, and this version seems great to me.
1017039557	It's fun.	It's fun.
1017063227	I've been playing for years.	Don't know.
1017068573	To play basketball and increase my basketball IQ.	To have fun.
1017094057	It was cheap, and is fun to play with friends.	No other reasons.
1017101427	They are fun and a lot of my friends get them, so we all play together.	Don't know.
1017138221	Because I like basketball.	Because I enjoyed the previous years.
1017141609	To play with a friend.	None.
1017142737	Great graphics.	I enjoy playing basketball with up-to-date characters.
1017167457	My son wanted to play it.	My son wanted to play it.
1017168129	Because my husband likes the franchise and wanted the latest version.	They were a lower price.
1017176607	MyCAREER mode, playing with friends.	Don't know.
1017177543	A huge NBA fan.	I like basketball video games.
1017195437	My friends played them, and I heard that they were fun.	Just to play the game and grind to get to 99, overall.
1017212095	I love basketball.	None.
1017213621	The graphics.	The stages.
1017213911	The gameplay.	No other reasons.
1017223909	I have always been a super fan, and once there's an upgrade, I go for it.	I love the game.

ID	A1. Main Reasons	A2. Other Reasons
1017225169	Because there is no other option for NBA basketball games.	Because there are no other options for NBA basketball games.
1017236405	My kids are huge basketball fans, and they asked for them.	They like to swap them out with their friends.
1017238463	Online play.	Love for basketball.
1017249423	I love basketball, and it was the only series available on PC.	To support continued PC development of an NBA game.
1017287795	It captures the true real action of the games it represents.	It has been my all-time favorite of sports games.
1017288709	A robust franchise mode that lasted a long time. Realistic new players.	Gameplay.
1017303637	I like that kind of game.	Exciting to play.
1017327407	I love the game. Each season gets better.	My son.
1017371857	I bought it as a gift for a 10-year-old.	Don't know.
1017418747	It was fun, but it was repetitive.	Don't know.
1017419529	Don't know.	
1017482167	Because I like basketball, and I think it's a spectacular game.	Don't know.
1017486705	I'm a basketball fan, and I have been playing 2K games for a long time now.	Don't know.
1017489089	The realism.	Don't know.
1017495989	Because I like the NBA.	Don't know.
1017554781	A gift for my girlfriend's son.	Don't know.
1017602025	Don't know.	
1017603573	Because I love basketball.	To try it out.
1017612495	My son wanted it, and it got good reviews.	The reviews.
1017613505	I honestly believe that it's amazing.	Don't know.
1017622859	For my fiancée's son for Christmas.	Don't know.
1017623049	Good playability.	Don't know.
1017624153	Don't know.	
1017624797	Don't know.	
1017635069	Fun. I like the NBA.	Don't know.
1017660481	Because it really feels like I'm playing basketball.	Because it's fun to play.
1017701259	I love basketball, duh.	It's fun, duh.
1017704657	It was 3 dollars on the Nintendo store.	None, other than it was 3 bucks.
1017716509	Children.	Don't know.

ID	A1. Main Reasons	A2. Other Reasons
1017729845	I love the series.	N/A.
1017746077	Great graphics.	I like the competition of playing with others.
1017829237	Don't know.	
1017832661	A Christmas gift.	None.
1017843817	My stepson wanted it.	Don't know.
1017870155	Other friends encouraged me to buy it so I could play with them.	I enjoy basketball.
1017873093	They are fun.	I like basketball.
1017898643	Don't know.	
1017901055	I love playing the game. Enjoy the features.	Friends playing online – wanting to play and chat with them.
1017911097	I bought it for my son.	I wanted my son to enjoy playing it.
1017912551	Don't know.	
1017913969	I like it very much.	No.
1017914401	I love b-ball.	Don't know.
1017954631	I enjoy the gameplay, and being able to make my own player and follow a storyline.	For enjoyment and relaxation.
1017984283	One of my favorite sports, and would play Ocala with friends.	For my boyfriend.
1017991213	Don't know.	
1018010139	Just bought the PlayStation 4 and wanted a basketball game.	Don't know.
1018092521	Don't know.	
1018093845	I'd played the game before, so I wanted to try it, so I bought it.	It's a great time to pass time, and it's an overall fun game.
1018142705	My son wanted it.	Don't know.
1018279979	I enjoy having my friends over to play this game.	This game is super fun, and I like making the teams and learning about the stats of actual players.
1018299719	For entertainment.	To share time with my children.
1018322153	The best basketball game on the market. It was also highly discounted when I made the purchase.	Don't know.
1018414337	A big basketball fan.	Don't know.
1018429409	Getting to play basketball.	To play NBA.

ID	A1. Main Reasons	A2. Other Reasons
1018448849	My son asked me if he can have the game.	I also bought the game because it is a nonviolent game, and it had a lot of things to do to keep his mind working.
1018459903	Because I love playing this game.	Don't know.
1018497129	Because I and my husband like it.	Because we are sporty persons, and I think this fits us, as we enjoyed playing it.
1018507975	Not sure.	Not sure.
1018520985	It was on sale.	No.
1018523181	I love the game.	The graphics were dope.
1018542655	The graphics quality.	Don't know.
1018571843	A present for my son, who LOVES basketball.	N/A.
1018579201	I like this sport in video games.	Don't know.
1018579729	The price.	It looked fun.
1018584791	It has the latest graphics technologies.	It's fun to play.
1018593199	I enjoy playing basketball video games.	Don't know.
1018717219	The lack of a competitor.	Don't know.
1018763579	My son wanted it.	My son had played it with his friends and wanted the game for himself.
1018775535	I buy it every year.	I like it.
1018814525	I like playing a GM.	I love basketball.
1018869297	It came in a game bundle.	None.
1018889223	I like new trends and the most up-to-date.	I like basketball.
1018905419	NBA.	NBA.
1018937093	Because it's fun to play.	Don't know.
1018977419	Everyone plays 2K, so I wanted to play with my friends and get better.	I like basketball, and it looked really fun.
1019027861	A birthday gift.	None.
1019079173	I like to play it.	Don't know.
1019082213	To play with my friends, and because I like basketball. The MyCAREER mode was also a deciding factor.	The ability to level up a player and progress is very appealing to me.
1019115009	It looked like a fun game, and my friends played it, too.	Don't know.
1019160963	I have two boys, and a husband that loves playing it.	Because my kids and husband really enjoy it and its graphics.

ID	A1. Main Reasons	A2. Other Reasons
1019287453	It is recommended by a friend that knows better than me when it comes to gaming.	It is interesting and extremely appealing.
1019447203	Don't know.	
1019534951	I like basketball.	It's fun.
1019542461	The game – my favorite in sports.	Don't know.
1019584069	I like that it's optimistic and bright in its outlook.	Don't know.
1019584333	It's interesting.	Don't know.
1019664745	I like it.	I love the game.
1019721059	To play virtual interactive basketball.	No.
1019760947	As a gift.	None.
1019760993	It's a good game.	Have many different groups.
1019825409	I like the graphics.	The price.
1019840199	Don't know.	
1019874145	I have been a fan of the game for years.	N/A.
1019913525	A gift.	My son wanted it.
1019930155	Love of basketball, and wanting to play friends and family members online and in person.	Don't know.
1019972951	My son likes to play the games, and I enjoy watching.	Fun to watch my son play.
1020322683	It's fun.	It's challenging.
1020380207	My son wanted it.	No other reason.
1020581043	Hubby wanted.	Hubby wanted.
1020824765	My son.	A gift.
1020868137	I am a fan of sports video games, and had an interest in playing the 2K franchise.	I heard the ones that I bought were good games, unlike other years where the game is broken.
1021167361	Because I love sports all the way.	Because I just like to have all the series of that game. And also, new players are in the game.
1021256795	To have a basketball game to play with my son.	Don't know.
1021302393	It is a fun game, and I like basketball.	The other games in the series have been good.
1021442621	I like basketball.	It's a fun game.
1021456571	The game is very exciting.	Very good.
1021465789	Don't know.	

ID	A1. Main Reasons	A2. Other Reasons
1021490485	I liked the game.	I liked the game.
1021498553	It is entertaining.	I like it.
1021549517	A gift for my grandson.	None.
1021717825	My children.	Children.
1021807011	I like basketball, and NBA Live is trash.	NBA Live is trash.
1021866369	Newer players and better graphics.	None.
1021867397	My little brother likes it.	It was decently priced at Black Friday.
1021892163	It's well-made.	Don't know.
1021911533	My children play organized sports and love them.	My children wanted them.
1022027409	The great quality.	Because the real graphics are very strong.
1022029065	Don't know.	
1022152581	I like basketball.	It's fun to play.
1022215929	My kids and hubby asked for it, and we like to play those types of games.	None.
1022217083	I am a diehard NY Knicks fan.	I love basketball. It's a favorite sport of mine.
1022256323	All of my friends played it.	Don't know.
1022314849	My nephew loves basketball.	They are fun to play.
1022377739	The popularity of the game. I was shopping for a basketball game.	Don't know.
1022423517	Great gameplay.	Good graphics.
1022428287	I like to get a collection.	To add to my extensive collection.
1022440681	For my two boys to enjoy.	To keep my kids off the street.
1022454005	It's a tradition. Also, I heard the graphics are better.	The experience for a plane for the first time.
1022578961	Don't know.	
1022754535	I love sports.	I love gaming.
1022775173	My daughter wanted it.	That was the main reason, my daughter.
1022787645	An excellent sports game.	Great value for money.
1022992675	It came with PlayStation.	Don't know.
1023323441	Other friends play it.	It can be fun to play every now and then.
1023503437	I play for the MyPLAYER game mode. It is made greatly, a very good mode.	MyTEAM game mode.

ID	A1. Main Reasons	A2. Other Reasons
1023580309	The best game.	Don't know.
1023580329	I love basketball.	To play.
1023733399	I like basketball.	Generally a well-made game.
1023759775	A friend told me about this video game and encouraged me to buy it.	Don't know.
1023828873	I love basketball.	Fun.
1023877761	I like the NBA.	Don't know.
1023907933	My friends had it, and I wanted to be good at it so I could play with them.	It seemed fun!
1023914329	Don't know.	
1023927933	I love the smooth gameplay and the series as a whole.	I enjoy playing sports games with my wife.
1023999965	Several game modes are present, and many settings can be customized.	Fantastic feel on the courts and how it works.
1024037221	The realism of the game.	I like basketball.
1024111905	To play all day.	To play it.
1024128409	It's very good. I like it. Excellent quality.	I like it.
1024159535	I like the level of gameplay.	Don't know.
1024159773	Because NBA 2K is my most favorite game, and I'm into basketball. I love playing games.	To learn the moves and be competitive.
1024176395	My son wanted it.	Don't know.
1024192775	I like basketball, and I can play with others.	I can play online.
1024276423	Don't know.	
1024281707	My son.	Christmas.
1024295719	The fun and games.	I like the idea.
1024298361	My son wanted it.	I like basketball games.
1024302401	Don't know.	
1024334019	I like basketball.	No.
1024348931	I've loved playing this game for years now.	I play the new one as soon as I can get it.
1024376177	Entertainment, to play a simulation basketball game.	Don't know.
1024403413	Good.	It's unique.
1024407121	I enjoy basketball, and my friends and I are good at the game.	I find them fun and enjoy the simulations.
1024414287	I wanted it.	Don't know.



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ID	A1. Main Reasons	A2. Other Reasons
1024425837	One of my sons really likes basketball.	I used to play basketball video games.
1024428329	Since I really like basketball, and it is one of my favorite sports, it is a good video game that was developed.	Because I like basketball, and it seems like a good video game.
1024435489	My friends play it.	I like basketball.
1024444679	I enjoy basketball.	Don't know.
1024445001	I love NBA and playing it on Xbox.	To play with friends.

## Appendix H

### **Which NBA Players' Depiction Was a Reason for Buying an NBA 2K Video Game and What Features or Aspects of Their Appearance Were Important to Depict<sup>1,2,3</sup> (Questions C2 and C4)**

*Base: Survey Respondents Who Said the Depiction of the Appearance of a Particular NBA Player Was One of Their Reasons for Buying an NBA 2K Video Game in Question C1*

C2. Which NBA player or players' depiction was a reason why you bought an NBA 2K video game?

**IF C2 NOT "DON'T KNOW":**

C3. In the NBA 2K video game(s) you bought, were there any particular features or aspects you thought were important to depict of these NBA players' appearance: [ANSWER FROM C2]?

**IF C3 = "YES":**

C4. What features or aspects were important to depict of these NBA players appearance: [ANSWER FROM C2]?

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1 The verbatims are sorted by whether the survey respondent mentioned LeBron James when asked which NBA players' depiction was a reason why they bought an NBA 2K video game in Question C2. None of the survey respondents said the depiction of Danny Green or Tristan Thompson was one of their reasons for buying an NBA 2K video game.

2 Note, Question C4 was "Not applicable" if the survey respondent said "Don't Know" when asked which NBA players were a reason why they bought an NBA 2K video game in Question C2 or if the survey respondent said "No" or "Don't know" when asked whether it was important to depict particular features or aspects of the NBA players' appearance they identified in Question C2.

3 An asterisk (\*) identifies the one survey respondent who mentioned tattoos.

ID	C2. NBA Players Who Were Important to Depict	C4. Features or Aspects That Were Important to Depict
<b>Mentioned LeBron James and Said It Was Important to Depict Particular Features or Aspects of His Appearance</b>		
1013811931	Stephen Curry, James, Oladipo.	The graphics.
1014005389	LeBron James.	Ultra-powerful, intelligence in basketball and skills, and size.
1014006853	LeBron James.	His jaw and beard.
1014149861	LeBron James.	The tactics and style.
1014262671	Stephen Curry, LeBron James, Embiid.	Movement, appearance, play time.
1014265023	LeBron James.	Great.
1014816135	LeBron James, Kevin Durant, Stephen Curry, James Harden.	The physical characteristics and impetus.
1015093805	LeBron James, LAL; Kawhi Leonard, LAC; and Giannis Antetokounmpo, MIL.	Don't know.
1016346009	LeBron James, Stephen Curry, and James Harden.	The shots, celebrations, movement.
1016707499	LeBron James.	His face and his body type.
1017223909	LeBron.	I'm a super-fan.
1018429409	LeBron James.	The Lakers.
1018523181	LeBron James.	LeBron.
1018775535	LeBron.	The movement.
<b>Mentioned LeBron James, But Said It Was <u>Not</u> Important or They Did Not Know Whether It Was Important to Depict Particular Features or Aspects of His Appearance</b>		
1014435785	LeBron James.	Not applicable.
1014436715	LeBron.	Not applicable.
1014552235	LeBron James.	Not applicable.
1015241237	LeBron James.	Not applicable.
1016555361	LeBron James.	Not applicable.
1017177543	LeBron James.	Not applicable.
1017482167	LeBron James, Stephen Curry, Kevin Durant, Anthony Davis.	Not applicable.
1017954631	LeBron. Westbrook. Harden. CP3.	Not applicable.
1021302393	LeBron James.	Not applicable.
1022775173	LeBron James.	Not applicable.

ID	C2. NBA Players Who Were Important to Depict	C4. Features or Aspects That Were Important to Depict
<b>Did <u>Not</u> Mention LeBron James, Danny Green, or Tristan Thompson</b>		
1012885771	All.	Don't know.
1012981035	Kevin Durant.	Not applicable.
1013877735	Clearer. More realistic.	Facial expressions.
1014088053	Kyrie.	Don't know.
1014116103	The way they can move around.	None.
1014190245	I like the athleticism of the players.	The speed, power, and ability to play well.
1014202485	The way they move across the screen, how they score, and whether they move to the next level.	Don't know.
1014594161	Giannis Antetokounmpo.	Not applicable.
1014611531	Jordan playing.	Good moves in games.
1014623099	No.	Not applicable.
1014746137	James Harden.	Not applicable.
1014774441	The control you have, and you can be a star for 2 or 3 hours.	Special plays at your will.
1014816115	Dwayne Wade.	None. He is my fav player.
1014994969	All the players. I'm a general fan of all the teams.	Not applicable.
1015091727	James Harden.	His trademark celebration (stirring the pot).
1015101571	All.	Not applicable.
1015248481	Michael Jordan.	Jersey.
1015517569	Charles Barkley.	The NBA skills and performance of the players.
1015853209	Nikola Jokić.	The sounds and graphics.
1015940357	The whole Sixers team.	Not applicable.
1016055653	All of them.	The face, physical attributes (height, weight, reach, build, movement), and hair. They really needed to improve at white players' hair, though. That was always lacking.
1016143895	All of the players' likenesses is what influenced my decision.	Not applicable.
1016143991	Kevin Durant.	Not applicable.
1016262261	All.	Not applicable.

ID	C2. NBA Players Who Were Important to Depict	C4. Features or Aspects That Were Important to Depict
1016332183	It looks good.	As long as the game looks and plays realistically, then I am all for it.
1016388555	Nobody in particular. That's not a main factor for me to buy an NBA game.	Not applicable.
1016525781	The realism of the face.	The accuracy.
1016687093	MyCAREER mode.	Don't know.
1016687193	Dwayne Wade.	Not applicable.
1017495989	Lakers.	Not applicable.
1017901055	All of them! It does a great job every year depicting the players.	The clothes, shoes, features, and skills/dunks.
1017913969	It is an interesting game.	No.
1018889223	Its graphics and its realism.	Don't know.
1018977419*	The better the players look in games, the more immersive they are.	Everything needs to be accurate, from the hair to tattoos, to the color of their headband. I want to feel like I am the player.
1021867397	Stephen Curry.	Not applicable.
1021911533	Pippen, Jordan.	The movement and playstyles.
1022027409	The game, because they are the best on sports.	The great sports.
1023927933	Stephen Curry.	Not applicable.
1024111905	Klay Thompson.	The greatest BB player.
1024425837	Michael Jordan.	Not applicable.

**Said "Don't Know" When Asked Which NBA Players' Appearance Was A Reason Why They Bought an NBA 2K Video Game**

1012941945	Don't know.	Not applicable.
1013903987	Don't know.	Not applicable.
1014019813	Don't know.	Not applicable.
1014067899	Don't know.	Not applicable.
1014133951	Don't know.	Not applicable.
1014147433	Don't know.	Not applicable.
1014158639	Don't know.	Not applicable.
1014225521	Don't know.	Not applicable.
1014227253	Don't know.	Not applicable.
1014435881	Don't know.	Not applicable.
1014440049	Don't know.	Not applicable.

<b>ID</b>	<b>C2. NBA Players Who Were Important to Depict</b>	<b>C4. Features or Aspects That Were Important to Depict</b>
1014985713	Don't know.	Not applicable.
1015165451	Don't know.	Not applicable.
1015299589	Don't know.	Not applicable.
1015722107	Don't know.	Not applicable.
1015753545	Don't know.	Not applicable.
1016498681	Don't know.	Not applicable.
1016554999	Don't know.	Not applicable.
1016744979	Don't know.	Not applicable.
1017213911	Don't know.	Not applicable.
1017303637	Don't know.	Not applicable.
1017624797	Don't know.	Not applicable.
1018459903	Don't know.	Not applicable.
1019542461	Don't know.	Not applicable.
1019584333	Don't know.	Not applicable.
1022428287	Don't know.	Not applicable.
1022754535	Don't know.	Not applicable.
1023914329	Don't know.	Not applicable.

## **Appendix I**

### **The 2018 NBA 2K Survey Report**

# **NBA 2K Video Game Survey Report**

**E. Deborah Jay, Ph.D.  
April 2018**

**JAY**

**SURVEY**

**STRATEGICS**



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## **Report of E. Deborah Jay, Ph.D.**

### **I. Introduction and Summary**

I am a principal and founder of Jay Survey Strategies LLC, a California research firm specializing in marketing and public opinion surveys. Jay Survey Strategies was retained on behalf of 2K Games, Inc. and Take-Two Interactive Software, Inc. to conduct a survey with a nationwide representative sample of individuals who had bought a relevant NBA 2K video game (NBA 2K14, NBA 2K15, NBA 2K16, NBA 2K17 or NBA 2K18).<sup>1</sup> The purpose of the Jay Survey was to determine the reasons for buying an NBA 2K video game and whether the tattoos on LeBron James, Eric Bledsoe or Kenyon Martin were a reason why consumers bought an NBA 2K video game.

#### **A. Summary of Methodology**

The Jay Survey was conducted between March 9 and March 28, 2018. Under my design, direction and supervision, YouGov, a full-service marketing research firm, selected the sample and collected the data for the Jay Survey using its online panel which consists of approximately 1.8 million individuals who are representative of all persons age 16 and older in the United States.<sup>2</sup> Each person who was randomly selected from the YouGov panel and invited to participate in the Jay Survey was provided with a unique link to the survey, so that no person could participate in the survey more than once.

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1 Jay Survey Strategies is performing this study on a time and materials basis. Because work in connection with this project is ongoing, I do not yet know the total project costs. The hourly rate that Jay Survey Strategies is charging for my time on this project in 2018 is \$650.

2 Background information on YouGov's online panel is in Appendix F.

### Eligibility Criteria

To be eligible for the Jay Survey, individuals age 16 to 55 had to have bought one of the following NBA 2K video games in the past 5 years: NBA 2K14, NBA 2K15, NBA 2K16, NBA 2K17, or NBA 2K18.<sup>3</sup> Qualifying survey respondents also had to agree to answer all survey questions on their own, without asking anybody else for help or referring to reference materials or the Internet, and they could not live in a household in which someone worked for a video game company or store, or for an advertising agency or marketing research firm.<sup>4</sup> In all, 8,267 randomly-selected individuals age 16 to 55 were screened for eligibility and, of these, 507 (6%) qualified for the Jay Survey (*i.e.*, they had bought a relevant NBA 2K video game in the past 5 years, and they did not work for a video game company or store, or for an advertising agency or marketing research firm).<sup>5</sup>

### Questions for Qualified Survey Respondents

The 507 survey respondents who qualified for the Jay Survey were asked up to four sets of questions, which included open-ended questions (questions that required respondents to answer in their own words) and closed-ended questions (questions that required respondents to select from a set of response categories). The first set of questions asked survey respondents to describe in their own words the main reasons why they bought an NBA 2K video game, and their other reasons, if any, for buying an NBA 2K video game. The second set of questions asked survey respondents about 20 possible reasons for buying an NBA 2K video game: a) I or a family member likes

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3 Individuals age 16 to 55 were surveyed because I understand that persons in this age group were most apt to have bought an NBA 2K video game in the past 5 years.

4 This is because these survey respondents might have special knowledge about the subject of the survey – namely, reasons for buying NBA 2K video games.

5 According to the Federal Judicial Center, Reference Manual on Scientific Evidence, probability sample confidence intervals provide a rough indicator of the value of estimates based on Internet surveys, such as this one. The maximum sampling error for analyses based on a probability sample of 507 survey respondents is +/- 4 percentage points at the 95% confidence level.

basketball, b) the ease of playing the game, c) the speed of gameplay, d) the overall quality of the graphics, e) the soundtrack, f) the camera angles during gameplay, g) the number of options, h) the inclusion of current NBA teams, i) the inclusion of other teams besides current NBA teams (such as the classic, historic or national teams), j) the crowd animations, k) the pre-game, half-time, and/or post-game shows, l) the different arenas, m) the ability to build your own team or create an expansion team, n) the ability to customize a player's game style, tendencies or attributes, o) the ability to maintain a trading card collection, p) the ability to play tournament-style competitions against other players, q) the ability to collect or purchase cards that unlock players and other items, r) the depiction of the NBA players' movements, s) the depiction of the NBA players' face, body and other aspects of their appearance, and t) the price/value of the game.<sup>6</sup> Survey respondents were asked to indicate which of these items, if any, were a reason why they bought an NBA 2K video game. They also were asked to indicate which item was their most important reason and which item was their next most important reason for buying an NBA 2K video game. The order in which the items were listed was randomized across survey respondents.<sup>7</sup>

Survey respondents who said that the depiction of the NBA players' face, body or other aspects of their appearance was a reason for buying an NBA 2K video game were asked a third set of questions. These survey respondents were asked whether the depiction of the appearance of particular NBA players was a reason for buying an NBA 2K video game, and, if so, which NBA players' depiction was a reason for buying an NBA 2K video game. The purpose of the third set of

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6 The list also included a fictitious feature, the "XTJ feature," which was created by randomly generating three letters. Survey respondents were asked whether they bought an NBA 2K video game because of the XTJ feature (even though NBA 2K video games do not have this feature). The purpose of the fictitious feature was to measure the amount of guessing or "noise" in the Jay Survey. A question about a fictitious feature or "control question" is an accepted method for measuring the amount of guessing or "noise" in a survey.

7 The randomization of the order of the items minimized the potential for the order of the items to influence the survey responses (known as "order effects" or "order bias").

questions was to determine whether the depiction of the appearance of LeBron James, Eric Bledsoe or Kenyon Martin was a reason for buying an NBA 2K video game.

Survey respondents who identified one or more NBA players whose appearance they thought was important to depict were asked a fourth set of questions. These survey respondents were asked whether there were particular features or aspects of the appearance of the NBA players they identified that were important to depict, and, if so, what features or aspects of these NBA players' appearance were important to depict. The purpose of the fourth set of questions was to determine whether the tattoos on LeBron James, Eric Bledsoe, or Kenyon Martin were a reason why survey respondents bought an NBA 2K video game.

The Jay Survey was double-blind; neither the persons administering the survey nor the survey respondents were told: a) the names of the sponsors of the survey, b) that the survey was intended to determine the reasons for buying an NBA 2K video game and whether the tattoos on LeBron James, Eric Bledsoe, or Eric Martin were a reason for buying an NBA 2K video game, or c) that the survey was being conducted in connection with litigation. The Jay Survey was performed according to accepted survey standards and in conformity with the guidelines discussed in the Federal Manual for Complex Litigation, 4th Ed. §11.493 (2004).<sup>8</sup>

## **B. Summary of Findings and Conclusions**

As described in more detail in this report, the Jay Survey found:

### **B1. Reasons for Buying an NBA 2K Video Game (Unaided Recall)**

1. When asked to describe in their own words their main reasons and their other reasons for buying an NBA 2K video game, survey respondents were most apt to

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<sup>8</sup> The survey population was properly defined as individuals age 16 to 55 who had bought an NBA 2K14, NBA 2K15, NBA 2K16, NBA 2K17 or NBA 2K18 video game in the past 5 years, and the sample selected was representative of that population. The questions asked in the Jay Survey were clear and not leading. The data gathered for the Jay Survey were accurately reported, and the data were analyzed in accordance with accepted statistical principles. The Jay Survey was conducted, under my direction, by survey research professionals following proper survey procedures, and the entire process was conducted so as to ensure objectivity.

say that they bought an NBA 2K video game because they like basketball, sports and/or sports video games (39%).

2. In response to the open-ended questions, only 11% of the survey respondents said the NBA 2K video games' graphics or realism were main reasons or other reasons why they bought an NBA 2K video game.
3. Moreover, less than 1% of the survey respondents mentioned the depiction of the NBA players' appearance. None of the survey respondents referred to the tattoos on any of the NBA players.
4. Only two persons (less than 1% of the survey respondents) even mentioned LeBron James, and neither one mentioned LeBron James' tattoos. None of the survey respondents mentioned Eric Bledsoe or Kenyon Martin.

## **B2. Reasons for Buying an NBA 2K Video Game (Aided Recall)**

5. When given a list of possible reasons for buying an NBA 2K video game, most (87%) of the survey respondents selected more than one reason. The average number of reasons that survey respondents selected was 6 and the median was 5.
6. In response to the closed-ended questions, survey respondents were most apt to indicate that they bought an NBA 2K video game because of the following reasons: they or a family member likes basketball (58%), the overall quality of the graphics (49%), and the inclusion of current NBA teams (41%).
7. Approximately 26% of the survey respondents indicated that the depiction of the NBA players' face, body or other aspects of their appearance was a reason for buying an NBA 2K video game.<sup>9</sup> Yet, of those in that group for whom the appearance of particular players was a reason they bought an NBA 2K video game, none of them mentioned tattoos as an important feature of the NBA players' appearance. Further, only one person said the depiction of the NBA players' appearance was the only reason why he bought an NBA 2K video game, and this person did not mention LeBron James, Eric Bledsoe, or Kenyon Martin or say anything about tattoos in response to any of the survey questions.

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9 When given a list, 7% of the survey respondents indicated that the fictitious XTJ feature was a reason for buying an NBA 2K video game. This means that approximately 7% of the survey respondents were guessing when they indicated an item was a reason for buying an NBA 2K video game. To eliminate guessing, the percentage who selected each item should be reduced by 7 percentage points. In other words, 19% of the survey respondents (26% minus 7%) said the depiction of the NBA players' face, body or other aspects of their appearance was a reason for buying an NBA 2K video game after accounting for guessing and other sources of "noise."

### **B3. Most Important Reason (Aided Recall)**

8. When given a list of reasons to choose from, the largest percentage of survey respondents (33%) indicated that their most important reason for buying an NBA 2K video game was that they or a family member likes basketball.
9. Only 3% of the survey respondents indicated that their most important reason for buying an NBA 2K video game was the depiction of the NBA players' face, body, or other aspects of their appearance.

### **B4. Top Two Reasons for Buying an NBA 2K Video Game (Aided Recall)**

10. In response to the closed-ended questions, survey respondents also were most likely to indicate that their fondness for basketball was one of their top two reasons for buying an NBA 2K video game. Approximately 43% of the survey respondents said that their most important reason or their next most important reason for buying an NBA 2K video game was that they or a family member likes basketball.
11. A smaller percentage (8%) of the survey respondents said that their most important reason or their next most important reason for buying an NBA 2K video game was the depiction of the NBA players' face, body, or other aspects of their appearance.<sup>10</sup>

### **B5. Whether the Depiction of the Appearance of Particular NBA Players Was a Reason for Buying an NBA 2K Video Game**

12. Only 14% of the survey respondents said that the depiction of the appearance of particular NBA players was one of the reasons why they bought an NBA 2K video game.
13. A negligible percentage (4%) of the survey respondents said the depiction of LeBron James' appearance was one of the reasons why they bought an NBA 2K video game.
14. None of the survey respondents said the depiction of the appearance of either Eric Bledsoe or Kenyon Martin was one of the reasons why they bought an NBA 2K video game.

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<sup>10</sup> Less than 1% of the survey respondents indicated that the fictitious XTJ feature was their most important reason or their next most important reason for buying an NBA 2K video game. This means that a negligible number of survey respondents guessed when asked their top two reasons for buying an NBA 2K video game.

**B6. Whether It Was Important to Depict Particular Features or Aspects of Certain NBA Players' Appearance**

15. Only 6% of the survey respondents said that it was important to depict particular features or aspects of certain NBA players' appearance.

16. None of the survey respondents said that it was important to depict the tattoos on LeBron James, Eric Bledsoe, Kenyon Martin, or any other NBA player.

Based on the overall design and execution of the Jay Survey, it provides representative and reliable information regarding individuals age 16 to 55 who bought an NBA 2K video game in the past 5 years. In my opinion, the Jay Survey strongly supports the conclusions that a) consumers buy NBA 2K video games for numerous reasons, and b) consumers do not buy NBA 2K video games for the tattoos on LeBron James, Eric Bledsoe or Kenyon Martin.

The findings of the Jay Survey and my conclusions are described in more detail in the remainder of this report, which is based on information that I have been provided and analyses that I have performed thus far.<sup>11</sup> I understand that I may be provided with additional information or asked to perform further analyses. If so, this report may be amended or revised.

## **II. Credentials**

I am a principal and founder of Jay Survey Strategies LLC, a marketing and public opinion research firm based in the San Francisco Bay Area. I have more than 40 years of experience conducting large-scale surveys of all types (*e.g.*, mail, Internet, telephone and in-person), including surveys for public agencies, nonprofit organizations, private companies and law firms. During my career, I have designed and directed well over 800 surveys and more than 400 surveys in legal cases. I have testified on behalf of plaintiffs and defendants in proceedings before state and federal courts and other tribunals (such as the U.S. Patent and Trademark Office and the U.S. International

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<sup>11</sup> The materials I considered in forming my opinions are described in Appendix C; screenshots showing how the questionnaire appeared on the computer are in Appendix D; and a detailed description of the methods used to conduct the Jay Survey is in Appendix E.



Trade Commission) in numerous cases, and routinely have been qualified by courts as an expert in survey methodology.<sup>12</sup> I also have lectured on litigation surveys and survey methods before bar associations, trade associations, and business and law schools, and been on the faculties of numerous continuing legal education programs.

I am past chair of the Council of American Survey Research Organizations (CASRO), a not-for-profit trade association representing more than one hundred commercial survey research companies in the United States, and I chaired the Standards Committee for the American Association for Public Opinion Research, a professional society of over 2,000 individuals engaged in opinion research, market research, and social research at public agencies, nonprofit organizations and private companies.<sup>13</sup> I have served on the editorial board of several journals, and my publications include articles in the Trademark Reporter, the Encyclopedia of Survey Research Methods, Polling America: An Encyclopedia of Public Opinion, and Trademark and Deceptive Advertising Surveys: Law, Science and Design.<sup>14</sup>

I hold a bachelor's degree in psychology and political science from the University of California at Los Angeles (*magna cum laude*) and a master's degree and doctorate in political science from the University of California at Berkeley. Before founding Jay Survey Strategies, I served for 23 years as President and CEO of Field Research Corporation, the highly-respected marketing and opinion research firm started by Mervin Field in 1945. I also have been a program director at SRI International (formerly Stanford Research Institute), a manager with KPMG Peat Marwick in San Francisco, and a research associate at the Survey Research Center at the University of California at Berkeley.

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<sup>12</sup> Appendix A includes a list of cases in which I have testified in deposition and/or at trial during the past four years.

<sup>13</sup> CASRO merged with the Marketing Research Association (the MRA) in January 2017 to form the Insights Association.

<sup>14</sup> Appendix B includes my resume and a list of publications and presentations I have authored (or coauthored) during the past 10 years.

### III. Findings

This section describes the findings from the Jay Survey. The verbatim responses to the open-ended questions are in Appendix G and Appendix H.

#### A. Which NBA 2K Video Games Survey Respondents Bought

As shown in Table 1, 31% or more of the survey respondents had bought each of the relevant NBA 2K video games, and the largest percentages of survey respondents had bought either the NBA 2K16 video game (60%) or the NBA 2K17 video game (66%).

<b>Table 1</b> <b>Which NBA 2K Video Games Survey Respondents Had Bought*</b>	
	Percent of Survey Respondents
	(n = 507)
NBA 2K14	31%
NBA 2K15	42
NBA 2K16	60
NBA 2K17	66
NBA 2K18	47

\* Based on Question S8. Note, percentages add to more than 100% because some survey respondents bought more than one NBA 2K video game.

The majority (64%) of the survey respondents had bought more than one of the five relevant NBA 2K video games, and 44% of the survey respondents had bought three or more of the relevant NBA 2K video games. (See Table 2.)

Table 2 How Many of the Relevant NBA 2K Video Games Survey Respondents Had Bought*	
	Percent of Survey Respondents
	(n = 507)
One	36%
Two	20
Three	21
Four	8
Five	15

\* Based on Question S8.

## B. Reasons for Buying an NBA 2K Video Game (Unaided Recall)

Survey respondents were asked the following open-ended questions: "What were the main reasons why you bought an NBA 2K video game?" and "What were the other reasons, if any, why you bought an NBA 2K video game?"<sup>15</sup> Survey respondents' answers to these questions are summarized in Table 3. In response to the open-ended questions, the largest percentage (39%) of survey respondents volunteered that they bought an NBA 2K video game because they like basketball, sports and/or sports video games. Only 11% of the survey respondents said that the graphics or realism of the game was their main reason or another reason for buying an NBA 2K video game. Moreover, less than 1% of the survey respondents mentioned the appearance of the players. None of the survey respondents referred to the tattoos on any NBA players. Only two persons (less than 1% of the survey respondents) even mentioned LeBron James, and neither one mentioned LeBron James' tattoos. None of the survey respondents mentioned Eric Bledsoe or Kenyon Martin.

<sup>15</sup> Survey respondents' verbatim responses to these questions are in Appendix G.

<b>Table 3</b> <b>Main Reasons and Other Reasons Survey Respondents</b> <b>Volunteered for Buying an NBA 2K Video Game*</b> <b>(Unaided Recall)</b>	
	<b>Percent of Survey Respondents</b>
	<i>(n = 507)</i>
I or my family likes basketball, sports or sports video games	39%
Looked like fun, it's good, my favorite, friends like it	25
A family member wanted it, it was a gift for me or my family	19
I'm a fan of NBA 2K video games	15
Wanted a game I could play with others, like to play online, like the competition	15
The graphics or realism	11
Like the NBA players or said "the players" (nonspecific)	3
The appearance of the players or player characteristics	<1
Mentioned LeBron James	<1
Mentioned Kenyon Martin	0
Mentioned Eric Bledsoe	0
Mentioned another NBA player	<1
The tattoos on the players	0
Misc. other comments only/None of the above	9
Don't know	8

\* Based on Questions A1 and A2. Note, percentages add to more than 100% because some survey respondents volunteered more than one reason for buying an NBA 2K video game.

### **C. Reasons for Buying an NBA 2K Video Game (Aided Recall)**

The next set of questions asked survey respondents about 20 possible reasons for buying an NBA 2K video game: a) I or a family member likes basketball, b) the ease of playing the game, c) the speed of gameplay, d) the overall quality of the graphics, e) the soundtrack, f) the camera angles during gameplay, g) the number of options, h) the inclusion of current NBA teams, i) the inclusion of other teams besides current NBA teams (such as the classic, historic or national teams), j) the crowd animations, k) the pre-game, half-time, and/or post-game shows, l) the different arenas, m) the ability to build your own team or create an expansion team, n) the ability to customize a player's game style, tendencies or attributes, o) the ability to maintain a trading card collection, p) the ability to play tournament-style competitions against other players, q) the ability

to collect or purchase cards that unlock players and other items, r) the depiction of the NBA players' movements, s) the depiction of the NBA players' face, body and other aspects of their appearance, and t) the price/value of the game. Survey respondents were asked to indicate which of these items, if any, were a reason why they bought an NBA 2K video game. The list of possible reasons also included a fictitious feature, "the XTJ feature," which was created by randomly generating letters. Survey respondents were asked whether they bought an NBA 2K video game because of the XTJ feature (even though NBA 2K video games do not have this feature). The purpose of the fictitious feature was to measure the amount of guessing or "noise" in the Jay Survey. The order in which the items were listed, including the fictitious feature, was randomized across survey respondents.

As shown in Table 4, when given a list of possible reasons for buying an NBA 2K video game, most (87%) of the survey respondents selected more than one reason, and half (52%) selected five or more reasons.

<b>Table 4</b> <b>Number of Reasons Survey Respondents Selected When Given</b> <b>a List of Possible Reasons for Buying an NBA 2K Video Game*</b> <b>(Aided Recall)</b>	
	<b>Percent of Survey Respondents</b>
	<i>(n = 507)</i>
One	9%
Two	9
Three	13
Four	13
Five	10
Six or more	42
<i>Not Applicable – Did not know the reasons why they bought an NBA 2K video game or did not select any of the reasons listed</i>	4

\* Based on Question B1.

The average (mean) number of reasons that survey respondents selected was 6, and the median was 5. (See Table 5.)

<b>Table 5</b> <b>Mean and Median Number of Reasons Survey Respondents Selected When</b> <b>Given a List of Possible Reasons for Buying an NBA 2K Video Game*</b> <b>(Aided Recall)</b>	
	<b>Percent of Survey Respondents</b>
	<i>(n = 507)</i>
Mean (average)	6
Median	5

\* Based on Question B1. Note: 21 people did not check any of the reasons listed or said "Don't know" in response to Question B1. The averages are based on respondents who selected one or more reasons.

As shown in Table 6, survey respondents were most apt to indicate that they bought an NBA 2K video game for the following reasons: they or a family member likes basketball (58%), the overall quality of the graphics (49%), and the inclusion of the current NBA teams (41%). A smaller percentage (26%) of the survey respondents said that they bought an NBA 2K video game because of the depiction of the NBA players' face, body, or other aspects of their appearance. Only one person said the depiction of the NBA players' appearance was the only reason why he bought an NBA 2K video game, and this person did not mention LeBron James, Eric Bledsoe, or Kenyon Martin or say anything about tattoos in response to any of the survey questions.

Approximately 7% of the survey respondents indicated that the fictitious XTJ feature was a reason for buying an NBA 2K video game. This means that approximately 7% of the survey respondents were guessing when they checked an item.

<b>Table 6</b> <b>Reasons Survey Respondents Selected When Given a List</b> <b>of Possible Reasons for Buying an NBA 2K Video Game*</b> <b>(Aided Recall)</b>	
	<b>Percent of Survey Respondents</b>
	<i>(n = 507)</i>
I or a family member likes basketball	58%
The overall quality of the graphics	49
The inclusion of current NBA teams	41
The price/value	34
The ability to build your own team or create an expansion team	34
The ease of playing the game	32
The ability to customize a player's game style, tendencies, or attributes	30
The depiction of the NBA players' movements	29
The inclusion of other teams besides current NBA teams (such as the classic, historic or national teams)	29
The speed of gameplay	28
The depiction of the NBA players' face, body, or other aspects of their appearance	26
The ability to play tournament-style competitions against other players	23
The number of options	22
The camera angles during gameplay	21
The different arenas	21
The soundtrack	20
The crowd animations	17
The pre-game, half-time, and/or post-game shows	13
The ability to collect or purchase cards that unlock players and other items	12
The ability to maintain a trading card collection	9
The XTJ feature	7
None of the above	2
Don't know	2

\* Based on Question B1. Note, percentages add to more than 100% because some survey respondents selected more than one reason for buying an NBA 2K video game in Question B1.

To eliminate guessing, we subtracted seven percentage points from the percentage who checked each item. As shown in Table 7, 19% of the survey respondents indicated that the depiction of the NBA players' appearance was a reason for buying an NBA 2K video game after accounting for guessing and other sources of "noise."

<b>Table 7</b> <b>Reasons Survey Respondents Selected When Given A List of Possible Reasons</b> <b>for Buying an NBA 2K Video Game, After Accounting for Guessing*</b> <b>(Aided Recall)</b>	
	Percent of Survey Respondents
	(n = 507)
I or a family member likes basketball	51%
The overall quality of the graphics	42
The inclusion of current NBA teams	34
The price/value	27
The ability to build your own team or create an expansion team	27
The ease of playing the game	25
The ability to customize a player's game style, tendencies, or attributes	23
The depiction of the NBA players' movements	22
The inclusion of other teams besides current NBA teams (such as the classic, historic or national teams)	22
The speed of gameplay	21
The depiction of the NBA players' face, body, or other aspects of their appearance	19
The ability to play tournament-style competitions against other players	16
The number of options	15
The camera angles during gameplay	14
The different arenas	14
The soundtrack	13
The crowd animations	10
The pre-game, half-time, and/or post-game shows	6
The ability to collect or purchase cards that unlock players and other items	5
The ability to maintain a trading card collection	2

\* Based on Question B1. Note, percentages add to more than 100% because some survey respondents selected more than one reason for buying an NBA 2K video game in Question B1.

#### **D. Most Important Reason for Buying an NBA 2K Video Game (Aided Recall)**

Next, survey respondents were asked to indicate which of the reasons listed was their most important reason for buying an NBA 2K video game. As shown in Table 8, the largest percentage of survey respondents (33%) indicated that their most important reason for buying an NBA 2K video game was that they or a family member likes basketball.



<b>Table 8</b> <b>Most Important Reason for Buying an NBA 2K Video Game*</b> <b>(Aided Recall)</b>	
	Percent of Survey Respondents
	(n = 507)
I or a family member likes basketball	33%
The overall quality of the graphics	10
The price/value	10
The inclusion of current NBA teams	6
The ability to customize a player's game style, tendencies or attributes	5
The ability to build your own team or create an expansion team	5
The inclusion of other teams besides current NBA teams (such as the classic, historic, or national teams)	4
The ability to play tournament-style competitions against other players	4
The speed of gameplay	4
The depiction of the NBA players' face, body or other aspects of their appearance	3
The depiction of the NBA players' movements	3
The number of options	2
The ease of playing the game	2
The different arenas	1
The ability to collect or purchase cards that unlock players and other items	1
The camera angles during gameplay	<1
The soundtrack	<1
The ability to maintain a trading card collection	<1
The XTJ feature	<1
The crowd animations	<1
The pre-game, half-time, and/or post game shows	<1
Don't know	<1
Not applicable – Did <u>not</u> indicate that any of the above were a reason for buying an NBA 2K video game	4

\* Based on Question B2. Note, if respondents gave only one reason in B1 for buying an NBA 2K video game, this reason was assigned to B2.

Approximately 10% of the survey respondents said that their most important reason for buying an NBA 2K video game was the overall quality of the graphics, and the same percentage (10%) said that the price/value of the game was their most important reason for buying an NBA 2K video game. Only 3% of the survey respondents indicated that their most important reason for

buying an NBA 2K video game was the depiction of the NBA players' face, body or other aspects of their appearance.

#### **E. Top Two Reasons for Buying an NBA 2K Video Game (Aided Recall)**

Survey respondents also were asked to indicate which of the reasons listed was their second most important reason for buying an NBA 2K video game. Table 9 summarizes the top two reasons survey respondents gave for buying an NBA 2K video game. When given a list, survey respondents were most likely to indicate that their top two reasons for buying an NBA 2K video game were the following: they or a family member likes basketball (43%), the overall quality of the graphics (21%), and the price/value of the game (19%). A smaller percentage (8%) of the survey respondents said that their most important reason or their next most important reason for buying an NBA 2K video game was the depiction of the NBA players' face, body or other aspects of their appearance.

Less than 1% of the survey respondents indicated that the fictitious XTJ feature was one of their top two reasons for buying an NBA 2K video game. This means that a negligible number of survey respondents guessed when asked for their most important reason and their next most important reason for buying an NBA 2K video game.

<b>Table 9</b> <b>Top 2 Reasons for Buying an NBA 2K Video Game*</b> <b>(Aided Recall)</b>	
	Percent of Survey Respondents
	(n = 507)
I or a family member likes basketball	43%
The overall quality of the graphics	21
The price/value	19
The inclusion of current NBA teams	14
The ability to build your own team or create an expansion team	11
The inclusion of other teams besides current NBA teams (such as the classic, historic or national teams)	9
The ease of playing the game	9
The ability to customize a player's game style, tendencies or attributes	9
The ability to play tournament-style competitions against other players	9
The depiction of the NBA players' face, body or other aspects of their appearance	8
The speed of gameplay	7
The depiction of the NBA players' movements	5
The number of options	5
The camera angles during gameplay	3
The ability to collect or purchase cards that unlock players and other items	3
The soundtrack	2
The crowd animations	2
The different arenas	2
The ability to maintain a trading card collection	1
The pre-game, half-time, and/or post-game shows	1
The XTJ feature	<1
<i>Not applicable – Did <u>not</u> indicate that any of the above were a reason for buying an NBA 2K video game</i>	4

\* Based on Questions B2 and B3.

## **F. Whether the Depiction of the Appearance of Particular NBA Players Was a Reason for Buying an NBA 2K Video Game**

Survey respondents who said that the depiction of the NBA players' face, body or other aspects of their appearance was a reason for buying an NBA 2K video game were asked the following question: "Was the depiction of the appearance of any particular NBA player or players a reason why you bought an NBA 2K video game?" As shown in Table 10, only 14% of the survey

respondents said that the depiction of the appearance of a particular NBA player was a reason for buying an NBA 2K video game.

<b>Table 10</b> <b>Whether the Depiction of the Appearance of Any Particular NBA Player</b> <b>Was a Reason for Buying an NBA 2K Video Game*</b>	
	Percent of Survey Respondents
	(n = 507)
Yes	14%
No	11
Don't know	<1
Not applicable – Did <u>not</u> say the depiction of the NBA players' face, body, or other aspects of their appearance was a reason for buying an NBA 2K video game	74

\* Based on Question C1.

These survey respondents were asked the following question: "Which NBA player or players' depiction was a reason why you bought an NBA 2K video game?"<sup>16</sup> As shown in Table 11, only 4% of the survey respondents said that the depiction of LeBron James was one of their reasons for buying an NBA 2K video game, and none of the survey respondents said the depiction of Eric Bledsoe or Kenyon Martin was one of their reasons for buying an NBA 2K video game.

<b>Table 11</b> <b>Whether the Depiction of the Appearance of LeBron James, Eric Bledsoe or Kenyon Martin</b> <b>Was a Reason for Buying an NBA 2K Video Game*</b>	
	Percent of Survey Respondents
	(n = 507)
Said the appearance of the following players was a reason for buying an NBA 2K video game:	4%
LeBron James	(4)
Eric Bledsoe	(0)
Kenyon Martin	(0)
Did <u>not</u> say that the depiction of the appearance of LeBron James, Eric Bledsoe or Kenyon Martin was a reason for buying an NBA 2K video game	96

\* Based on Question C2.

<sup>16</sup> Survey respondents' verbatim responses to this question are in Appendix H.

## G. What Features or Aspects of Particular NBA Players' Appearance Were Important to Depict

Survey respondents who said the depiction of a particular NBA player was a reason for buying an NBA 2K video game and who identified one or more NBA players whose appearance they thought was important to depict were asked the following question: "In the NBA 2K video game(s) you bought, were there any particular features or aspects you thought were important to depict of these NBA players' appearance: [NBA PLAYERS THE RESPONDENT IDENTIFIED]?" Their responses to this question are summarized in Table 12.

<b>Table 12</b> <b>Whether It Was Important to Depict Particular Features or Aspects of</b> <b>Certain NBA Players' Appearance*</b>	
	Percent of Survey Respondents
	(n = 507)
Yes	6%
No	4
Don't know	2
<i>Not applicable – Said "don't know" when asked which NBA player's or players' depiction was a reason why they bought an NBA 2K video game</i>	2
<i>Not applicable – Did <u>not</u> say the depiction of the appearance of any particular NBA player was a reason for buying an NBA 2K video game</i>	86

\* Based on Question C3.

As shown in Table 12, only 6% of the survey respondents said that it was important to depict particular features or aspects of the appearance of the NBA players they identified. These survey respondents were asked the following question: "What features or aspects were important to depict of these NBA players' appearance: [NBA PLAYERS THE RESPONDENT IDENTIFIED]?"<sup>17</sup> As shown in Table 13, none of the survey respondents said it was important to depict the tattoos on LeBron James, Eric Bledsoe or Kenyon Martin. None of the survey respondents said that it was important to depict the tattoos on any other NBA player either.

<sup>17</sup> Survey respondents' verbatim responses to this question are in Appendix H.

Table 13	
Whether It Was Important to Depict the Tattoos on LeBron James, Eric Bledsoe or Kenyon Martin*	
	Percent of Survey Respondents
	(n = 507)
Said it was important to depict the tattoos on:	0%
LeBron James	(0)
Eric Bledsoe	(0)
Kenyon Martin	(0)
Did <u>not</u> say it was important to depict the tattoos on LeBron James, Eric Bledsoe, or Kenyon Martin	100

\* Based on Question C4.

#### IV. Conclusions

The Jay Survey was performed according to accepted survey standards and in conformity with the guidelines discussed in the Federal Manual for Complex Litigation, 4<sup>th</sup> Ed. §11.493 (2004). Based on the overall design and execution of the Jay Survey, it provides representative and reliable information regarding individuals age 16 to 55 who bought an NBA 2K video game in the past 5 years. In my opinion, the Jay Survey strongly supports the conclusions that a) consumers buy NBA 2K video games for numerous reasons, and b) consumers do not buy NBA 2K video games for the tattoos on LeBron James, Eric Bledsoe or Kenyon Martin.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed this 25th day of April at Redwood City, California.



E. Deborah Jay, Ph.D.

## **Appendix A**

### **E. Deborah Jay, Ph.D. Deposition and Trial Testimony During the Past Four Years**

**E. Deborah Jay, Ph.D.**  
**Deposition and Trial Testimony During the Past Four Years**

1. *VirnetX, Inc. and Leidos v. Apple, Inc.* (United States District Court, Eastern District of Texas)  
Case No. 6:12-CV-00855-RWS
2. *Lauren Hall v. Welch Foods, Inc. and The Promotion In Motion Companies* (United States District Court, Eastern District of New York)  
Case No. 1:17-CV-05828-MKB-VMS
3. *Luci Bags LLC v. Younique LLC* (United States District Court, Eastern District of Texas)  
Case No. 4:17-CV-377
4. *The Kroger Co. v. Lidl* (United States District Court, Eastern District of Virginia)  
Case No. 3:17-CV-00480-JAG
5. *Pom Wonderful LLC v. The Coca-Cola Company* (United States District Court, Central District of California)  
Case No. 2:08-CV-06237-SJO-FMO
6. *VirnetX, Inc. and Science Applications Int'l Corp. v. Apple, Inc.* (United States District Court, Eastern District of Texas)  
Case No. 6:13-CV-00855
7. *Denis George Mahan P/K/A Deney Terrio v. Hasbro, Inc. and Hasbro Studios, LLC.* (United States District Court, Middle District of Florida)  
Case No. 6:15-CV-00188-RBD-GJK
8. *Twentieth Century Fox Television and Fox Broadcasting Co. v. Empire Distribution, Inc.* (United States District Court, Central District of California)  
Case No. 2:15-CV-02158-PA-FFM
9. *Linx Bracelets, Inc. v. Origami Owl, LLC* (United States District Court, Central District of California)  
Case No. 2:14-CV-06799-SVW (JEM)
10. *In the Matter of Certain Footwear Products* (United States International Trade Commission)  
Investigation No. 337-TA-936
11. *Pinterest, Inc. v. Pintrips, Inc.* (United States District Court, Northern District of California)  
Case No. 13-4608 (HSG)
12. *Fitbug Ltd. v. Fitbit, Inc.* (United States District Court, Northern District of California)  
Case No. 13-CV-01418 (SC)



## **Appendix B**

### **E. Deborah Jay, Ph.D. Resume and Publications and Presentations Since 2008**

- *Resume*
- *Publications and Presentations Since 2008*

---

## E. Deborah Jay, Ph.D.

---

### Current Position

Principal/Founder, Jay Survey Strategies LLC  
2000 Broadway St., Suite 143  
Redwood City, CA 94063  
(415) 533-0020  
deborahjay@jaysurveystrategies.com

Jay Survey Strategies is a research agency primarily involved in conceptualizing, planning, executing, and reporting on custom-designed opinion studies.

### Technical Skills

Expert in research design and all phases of survey methodology – questionnaire design, sampling, data collection, data processing, qualitative and quantitative data analysis, with more than 40 years' experience conducting large-scale surveys of all types.

### Research Experience

#### *Branding, marketing and advertising research:*

Responsible for branding, marketing, and advertising research relating to services and products in a variety of industries (*e.g.*, health, education, technology, communications, finance, transportation, and wholesale/retail trade).

#### *Public policy studies:*

Responsible for policy analyses and evaluations concerning medical assistance programs (*e.g.*, Medicaid, Medicare, and county health services), public health campaigns (*e.g.*, concerning tobacco use, diet and nutrition), educational programs (*e.g.*, for disadvantaged students and students with disabilities), general assistance programs, and other public issues (*e.g.*, child care, access to telephone service, the environment).

#### *Litigation support:*

Court-qualified expert in survey methodology; responsible for conducting and evaluating surveys for legal cases involving a variety of issues (*e.g.*, trademark, copyright and patent infringement, false advertising, right of publicity/false endorsement, defamation, exempt/nonexempt employment classification, off-the-clock work and other wage and hour issues, employment discrimination, product liability, business conduct, natural resources valuation, change of venue) and providing expert testimony in proceedings before state and federal courts and other tribunals such as the International Trade Commission and the U.S. Patent and Trademark Office.

## Professional Experience Before Founding Jay Survey Strategies

President and CEO, Field Research Corporation, San Francisco, CA.

Program Director and Senior Research Social Scientist, SRI International (formerly Stanford Research Institute), Menlo Park, CA.

Manager, Management Consulting Division, KPMG Peat Marwick, San Francisco, CA.

Public Policy Analyst/Survey Specialist, Teknekron, Berkeley, CA.

Research Associate, Survey Research Center, University of California, Berkeley, CA.

## Education

Ph.D. in political science, University of California at Berkeley (1981).

M.A. in political science, University of California at Berkeley (1973).

B.A. in psychology/political science, University of California at Los Angeles (1972, *magna cum laude*, Phi Beta Kappa).

## Professional Associations

*Council of American Survey Research Organizations (CASRO):*

Board of Directors (1995-2001); Chair (1999); Chair-Elect (1998); Secretary (1997); Chair, Committee on Survey Research Quality (1997-1998); Chair, Committee on Standards and Ethics (1995-1996).

*American Association for Public Opinion Research (AAPOR):*

Editorial Board, Survey Practice (2007-2017); Advisory Council, Public Opinion Quarterly (2008-2012); Executive Council (2001-2003); Standards Chair (2002-2003); Associate Standards Chair (2001-2002); Standards Committee Member (1992); Past President, Pacific Chapter (1989); Appointed to numerous ad hoc committees (e.g., 2009 Standards Review Committee, 2010 Survey-Based Legal Evidence Committee).

*International Trademark Association (INTA):*

Editorial Board, Trademark Reporter (2012-present); Brand Names Education Committee (2004).

## Other Directorships

Board of Directors, Roper Center for Public Opinion Research (housed at the University of Connecticut) (1997-2003); Member, Committee on Data Acquisitions & Standards (2001-2003).

Board of Directors, Bay Area Council (1991-2009).

Board of Directors, Bay Area Economic Forum (1996-2001).

San Francisco Municipal Fiscal Advisory Committee to the Mayor (Committee Member, 1991-2001; Executive Committee Member, 1998-2001).

## Teaching Experience

- Lecturer, New York City Bar Association, Trademarks and Unfair Competition Committee (New York, June 2015).
- Faculty member, 2015 Trademark Office Comes to California, Continuing Legal Education Seminars sponsored by The State Bar of California Intellectual Property Law Section (Los Angeles and San Francisco, 2015).
- Faculty member, IP BYTES: Hot Topics in Trademark Law, Continuing Legal Education Seminar sponsored by the Intellectual Property Section of the Bar Association of San Francisco (2014).
- Lecturer, American Intellectual Property Law Association, Annual Conference (Washington DC, 2012).
- Faculty member, Current Trends in Wage & Hour Litigation: Economic, Legal and Statistical Issues, Continuing Legal Education Seminar sponsored by ERS Group (San Francisco, 2006 and 2009; New York, 2007; Santa Monica, 2006, 2007, 2009, 2011 and 2012).
- Lecturer, New York City Bar Association, Trademark and Copyright Committee (New York, 2011).
- Faculty member, 2010 IP Damages Institute sponsored by the CalCPA Education Foundation (Los Angeles, 2010).
- Faculty member, The State Bar of California 35<sup>th</sup> Annual Intellectual Property Institute (Napa, 2010).
- Faculty member, Florida Bar Intellectual Property Law Symposium (Tampa, 2010).
- Lecturer, Marketing Research Council (New York, 2010).
- Lecturer, Surveys in Trademark Prosecution and Litigation, Continuing Legal Education Seminar and Roundtable hosted by Graham and Dunn for the International Trademark Association (Seattle, 2009).
- Guest lecturer, American Studies Program, University of California at Berkeley (1999 and 2008).
- Lecturer, San Francisco Intellectual Property Law Association. (San Francisco, 2006).
- Faculty member, Advertising and Marketing Law, Continuing Legal Education Seminar sponsored by Insight Information (Chicago, 2006).
- Faculty member, 2005 Advertising and Trademark Seminar, sponsored by Kirkland and Ellis LLP (Chicago, 2005).
- Faculty member, Trademark Portfolio Acquisition and Protection, Continuing Legal Education Seminar sponsored by Law Seminars International (San Diego, 2004).
- Faculty member, Trademark Dilution & Damages, Intellectual Property Section, The Barristers Club of San Francisco (2003).
- Guest lecturer, Intellectual Property Seminar, Boalt Law School, University of California at Berkeley (1999-2003).

Faculty member, Basics of Trademark Litigation, Continuing Legal Education Seminar sponsored by the International Trademark Association (Washington DC, 2001).

Guest lecturer at the graduate and undergraduate levels, Marketing Research Seminars, Haas School of Business, University of California at Berkeley (1995-2000).

Faculty member, Forensics Research Conference, Council of American Survey Research Organizations (New York, 2000).

Faculty member, Employment Discrimination: Statistical Evidence and Economic Exposure, Continuing Legal Education Seminar sponsored by ERS Group (Atlanta, Chicago, San Francisco, 1996-2000).

Faculty member, Advertising Law for the Next Century in California, Continuing Legal Education Seminar sponsored by Lorman Education Services (San Francisco, 1999).

Guest lecturer, Institute for Governmental Studies, University of California at Berkeley (1999).

Faculty member, National Advertising Division of the Council of Better Business Bureaus, Workshop IX (San Francisco, 1998).

Lecturer on public opinion research, Political Science Department, University of California at Davis (1978).

**E. Deborah Jay, Ph.D.**  
**Publications and Presentations Since 2008**  
**(Author or Co-author)**

"Targeting Trademark Surveys." Presentation to the New York City Bar Association Trademarks and Unfair Competition Committee (New York, June 2015).

"Mark My Words: Contemporary Trademark Surveys." Presentation for the 2015 Trademark Office Comes to California, Continuing Legal Education Seminars sponsored by The State Bar of California Intellectual Property Law Section (Los Angeles and San Francisco, April 2015).

"He Who Steals My Good Name: Likelihood-of-Confusion Surveys in TTAB Proceedings." 104 Trademark Reporter 1141 (2014).

"Millennium Falconry: Navigating the Hyperspace of 21st Century Trademark Surveys." Presentation for the IP BYTES: Hot Topics in Trademark Law seminar sponsored by the Intellectual Property Section of the Bar Association of San Francisco (July 2014).

"Ten Truths of False Advertising Surveys." 103 Trademark Reporter 1116 (2013).

"Polling Consumers: Surveys in Advertising Cases." Presentation at the 2012 American Intellectual Property Law (AIPLA) Annual Conference. (Washington DC, October 2012).

"Genericness Surveys in Trademark Disputes: Under the Gavel." In Trademark and Deceptive Advertising Surveys: Law, Science, and Design, edited by Shari Seidman Diamond and Jerre B. Swann (Chicago, IL: American Bar Association, 2012).

"He Who Steals My Good Name: The Use of Survey Evidence in Intellectual Property Cases." Presentation at the New York City Bar Association Trademark and Copyright Committee (New York, December 2011).

"Using Surveys to Assess Damages in Intellectual Property Disputes." Presentation at the 2010 IP Damages Institute sponsored by the CalCPA Education Foundation (Los Angeles, November 2010).

"Wine, Women & Song: The Use of Survey Evidence in the Gallo, Princess Diana and Napster Cases." Presentation at The State Bar of California 35<sup>th</sup> Annual Intellectual Property Institute (Napa, October 2010).

"Asked and Answered: Surveys in Trademark and Other Intellectual Property Disputes." Presentation at the Florida Bar Intellectual Property Law Symposium (Tampa, March 2010).

"Surveys as Scientific Evidence: Anatomy of a Survey in Court." Presentation for the Marketing Research Council (New York, March 2010).

"Genericness Surveys in Trademark Disputes: Evolution of Species." 99 Trademark Reporter. 1118 (2009).

"Survey Evidence in Trademark and Other Intellectual Property Disputes." Presentation for a seminar and roundtable hosted by Graham and Dunn for the International Trademark Association (Seattle, January 2009).

"Litigation Surveys." In Encyclopedia of Survey Research Methods, edited by Paul J. Lavrakas. Volume 1 (Thousand Oaks, CA: Sage Publications, 2008).

## **Appendix C**

### **Materials Considered**



## Materials Considered

Counsel for 2K Games, Inc. and Take-Two Interactive Software, Inc. provided me with a copy of the following court papers filed in connection with *Solid Oak Sketches LLC v. 2K Games, Inc. and Take-Two Interactive Software, Inc.* (S.D.N.Y., Case No. 16-cv-00724):

- The Second Amended Complaint for Copyright Infringement (filed 10/24/16),
- Defendants' Answer and Counterclaims (filed 8/16/16),
- Memorandum of Law in Support of Defendants-Counterclaimants 2K Games, Inc. and Take-Two Interactive Software, Inc.'s Motion for Judgment on the Pleadings (filed 8/9/17),
- Memorandum of Law in Support of Plaintiff's Response to Defendants' Motion for Judgment on the Pleadings (filed 9/12/17), and
- Reply Memorandum of Law in Support of Defendants-Counterclaimants 2K Games, Inc. and Take-Two Interactive Software, Inc.'s Motion for Judgment on the Pleadings (filed 10/2/17).

I also looked at the 2K Games, Inc. website located at [www.2K.com](http://www.2K.com) and at other information about the NBA 2K games on the Internet. The other materials I considered are described in my report and/or included as appendices to my report.

## **Appendix D**

### **Questionnaire (Sample Web Screenshots)**

**QUESTION S1**

**YouGov**

---

We are conducting a short opinion survey for Jay Survey Strategics, an independent research firm.

What is your gender?

☐ Male

☐ Female

>

**QUESTION S2**  
**(IF S1 MATCHES GENDER IN DATABASE)**

**YouGov**

---

What is your age?

Please type your answer here.

>

**QUESTION S3**  
**(IF S2 = 16-55 AND MATCHES AGE IN DATABASE)**

**YouGov**

---

Do you agree to answer all survey questions on your own, without asking anybody else for help or referring to reference materials or the Internet?

- ☐ Yes, I agree
- ☐ No, I do not agree




**QUESTION S4\***  
**(IF S3 = YES, I AGREE)**

**YouGov**

---

What order are these colors in? (Note, the image may take a few seconds to load.)



☐ Blue, yellow, green, red

☐ Blue, red, green, yellow

☐ Yellow, green, blue, red

☐ Green, blue, red, yellow

☐ Green, red, blue, yellow

☐ Red, yellow, green, blue

☐ None of the above

☐ Don't know

\* The order of the first six answer categories was randomized across respondents.

**QUESTION S5\***  
**(IF S4 = GREEN, RED, BLUE, YELLOW)**

**YouGov**

---

In the past 5 years, did you buy any of the following items?  
(SELECT ALL ANSWERS THAT APPLY)

- ☐ An activity tracker
- ☐ A laptop or tablet
- ☐ A smartwatch
- ☐ A camera or camcorder
- ☐ A video game
- ☐ Wireless earbuds or earphones
- ☐ A cell phone
- ☐ A gaming headset
- ☐ None of the above
- ☐ Don't know

>

\* The order of the first eight answer categories was randomized across respondents.

**QUESTION S6\***  
**(IF S5 = A VIDEO GAME)**

**YouGov**

---

In the past 5 years, which of the following types of video games, if any, did you buy?  
(SELECT ALL ANSWERS THAT APPLY)

- ☐ Role-playing games
- ☐ Music or rhythm games
- ☐ Sports games
- ☐ Action or adventure games
- ☐ None of the above
- ☐ Don't know

>

\* The order of the first four answer categories was randomized across respondents.



**QUESTION S7\***  
**(IF S6 = SPORTS GAMES)**

**YouGov**

---

In the past 5 years, which of the following types of sports video games, if any, did you buy?  
(SELECT ALL ANSWERS THAT APPLY)

- ☐ Basketball
- ☐ Hockey
- ☐ Baseball
- ☐ Skateboarding
- ☐ Football
- ☐ None of the above
- ☐ Don't know

>

\* The order of the first five answer categories was randomized across respondents.

**QUESTION S8**  
**(IF S7 = BASKETBALL)**

**YouGov**

In the past 5 years, did you buy any of the following NBA 2K video games?  
(SELECT ALL ANSWERS THAT APPLY)

- ☐ NBA 2K14
- ☐ NBA 2K15
- ☐ NBA 2K16
- ☐ NBA 2K17
- ☐ NBA 2K18
- ☐ None of the above
- ☐ Don't know




**QUESTION S9\***  
**(IF S8 = NBA 2K14, NBA 2K15, NBA 2K16, NBA 2K17 OR NBA 2K18)**

**YouGov**

---

Do you or does anyone in your household work for any of the following types of organizations or companies?  
(SELECT ALL ANSWERS THAT APPLY)

- ☐ A government agency
- ☐ An advertising agency or marketing research firm
- ☐ A video game company or store
- ☐ None of the above
- ☐ Don't know



\* The order of the first three answer categories was randomized across respondents.

**INSTRUCTION A**  
**(IF S9 ≠ A VIDEO GAME COMPANY OR STORE OR**  
**AN ADVERTISING AGENCY OR MARKETING RESEARCH FIRM)**

**YouGov**

---

Our next questions are about the NBA 2K video game(s) that you bought.

We would like to assure you that we are only interested in your opinions and beliefs. If you do not know the answer to a question or do not have an opinion or belief, please indicate this.



**QUESTION A1**

**YouGov**

---

What were the main reasons why you bought an NBA 2K video game?  
(PLEASE TYPE YOUR ANSWER IN THE BOX)

☐ Don't know



**QUESTION A2**  
**(IF A1 ≠ DON'T KNOW)**

**YouGov**

---

What were the other reasons, if any, why you bought an NBA 2K video game?  
(PLEASE TYPE YOUR ANSWER IN THE BOX)

☐ Don't know

>


**QUESTION B1\***

**YouGov**

---

Which of the following items, if any, were a reason why you bought an NBA 2K video game?  
(SELECT ALL ANSWERS THAT APPLY)

- ☐ The ability to collect or purchase cards that unlock players and other items
- ☐ The ease of playing the game
- ☐ The speed of gameplay
- ☐ The camera angles during gameplay
- ☐ The XTJ feature
- ☐ The number of options
- ☐ The overall quality of the graphics
- ☐ The price/value
- ☐ I or a family member likes basketball
- ☐ The different arenas
- ☐ The pre-game, half-time, and/or post-game shows
- ☐ The soundtrack
- ☐ The depiction of the NBA players' movements
- ☐ The ability to build your own team or create an expansion team
- ☐ The ability to play tournament-style competitions against other players
- ☐ The crowd animations
- ☐ The inclusion of other teams besides current NBA teams (such as the classic, historic or national teams)
- ☐ The ability to maintain a trading card collection
- ☐ The depiction of the NBA players' face, body or other aspects of their appearance
- ☐ The ability to customize a player's game style, tendencies or attributes
- ☐ The inclusion of current NBA teams
- ☐ None of the above
- ☐ Don't know



\* The order of the first 21 answer categories was randomized across respondents.

**QUESTION B2\***  
**(IF B1 = MORE THAN ONE ITEM)**

**YouGov**

Which one of these was the most important reason why you bought an NBA 2K video game?

- ☐ The number of options
- ☐ The overall quality of the graphics
- ☐ I or a family member likes basketball
- ☐ The depiction of the NBA players' face, body or other aspects of their appearance
- ☐ Don't know



\* Only categories selected in B1 are displayed, in the order in which they appeared in B1. Options were selected at random for this appendix.



**QUESTION B3\***  
**(IF B1 = MORE THAN TWO ITEMS AND B2 ≠ DON'T KNOW)**

**YouGov**

---

Which one of these was the next most important reason why you bought an NBA 2K video game?

- ☐ The number of options
- ☐ The overall quality of the graphics
- ☐ The depiction of the NBA players' face, body or other aspects of their appearance
- ☐ Don't know

>

\* Only categories selected in B1 and not selected in B2 are displayed, in the order in which they appeared in B1. Options were selected at random for this appendix.

**QUESTION C1**  
**(IF B1 = DEPICTION OF THE NBA PLAYERS' FACE, BODY, OR OTHER ASPECTS OF THEIR APPEARANCE)**

**YouGov**

Was the depiction of the appearance of any particular NBA player or players a reason why you bought an NBA 2K video game?

☐ Yes

☐ No

☐ Don't know

>

**QUESTION C2**  
**(IF C1 = YES)**

**YouGov**

Which NBA player or players' depiction was a reason why you bought an NBA 2K video game?  
(PLEASE TYPE YOUR ANSWER IN THE BOX)

☐ Don't know

>

**QUESTION C3**  
**(IF C2 ≠ DON'T KNOW)**

**YouGov**

In the NBA 2K video game(s) you bought, were there any particular features or aspects you thought were important to depict of these NBA players' appearance: [Player 1](#), [Player 2](#)?

☐ Yes

☐ No

☐ Don't know

>

**QUESTION C4**  
**(IF C3 = YES)**

**YouGov**

What features or aspects were important to depict of these NBA players' appearance: [Player 1](#), [Player 2](#)?

(PLEASE TYPE YOUR ANSWER IN THE BOX)

☐ Don't know

>

***CLOSING***

**YouGov**

---

Thank you for your help with this survey.



## **Appendix E**

### **Jay Survey Methods**

## Jay Survey Methods

The Jay Survey was conducted with a nationwide representative sample of persons age 16 to 55 who had bought one of the following NBA 2K video games in the past 5 years: NBA 2K14, NBA 2K15, NBA 2K16, NBA 2K17, or NBA 2K18.<sup>1</sup> The purpose of the Jay Survey was to determine the reasons for buying an NBA 2K video game and whether the tattoos on LeBron James, Eric Bledsoe, or Kenyon Martin were a reason why consumers bought an NBA 2K video game.

### A. Sampling Frame and Questionnaire

Under my design, direction and supervision, YouGov, a full-service marketing research firm, selected the sample and collected the data for the Jay Survey using its online panel, which consists of approximately 1.8 million persons who are representative of all individuals age 16 and older in the United States.<sup>2</sup> Each person who was randomly selected from the YouGov panel and invited to participate in the Jay Survey was provided with a unique link to the survey, so that no individual could participate in the survey more than once.<sup>3</sup>

#### Survey Introduction and Eligibility Questions

Jay Survey Strategies developed a questionnaire for the survey to be completed online by a nationwide representative sample of individuals age 16 to 55 randomly-selected from YouGov's online panel.<sup>4</sup> The Jay Survey was introduced in the following manner:

We are conducting a short opinion survey for Jay Survey Strategies, an independent research firm.

---

1 I understand that most of the relevant NBA 2K video games were purchased by persons age 16 to 55.

2 Background information on YouGov's online panel is in Appendix F.

3 The IP address and other information in YouGov's panel database (such as the respondent's mailing address) also were checked to ensure that the sample did not include duplicate respondents.

4 Sample screenshots showing how the questionnaire appeared on the computer are in Appendix D.

The Jay Survey then asked survey respondents for their gender and age:

(S1) What is your gender?

(S2) What is your age?

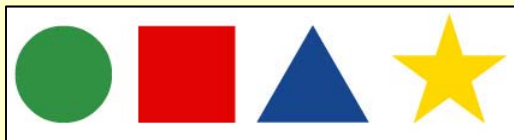
To be eligible for the Jay Survey, a respondent had to be age 16 to 55. For validation purposes, the demographic information (the gender and age) that respondents provided in the survey was compared with the demographic information in YouGov's panel database. Only those survey respondents whose gender and age were consistent with the information in the YouGov panel database were eligible to participate in the Jay Survey.<sup>5</sup> In other words, the demographic information was validated for 100% of the persons included in the Jay Survey.

Survey respondents with valid demographics were asked whether they would agree to complete the survey on their own:

(S3) Do you agree to answer all survey questions on your own, without asking anybody else for help or referring to reference materials or the Internet?

Only those respondents who agreed to complete the survey on their own (without help from anyone else or referring to reference materials or the Internet) were eligible to participate in the Jay Survey. Next, survey respondents were asked the following question:<sup>6</sup>

(S4) What order are these colors in? (Note, the image may take a few seconds to load.)#



5 The age an individual provided in the survey was considered to be consistent if it was within two years of the age derived from the birthdate the individual provided when he/she joined the YouGov online panel.

6 A cross-hatch symbol (#) indicates that the order of the response categories for a question was randomized across survey respondents. For example, for this question, "Blue, yellow, green, red" was the first response category for approximately 17% of the survey respondents, the second response category for approximately 17% of the survey respondents, the third response category for approximately 17% of the survey respondents and so on.

Following are the response categories for this question, which were randomized across survey respondents:

Blue, yellow, green, red  
Green, red, blue, yellow  
Blue, red, green, yellow  
Red, yellow, green, blue  
Yellow, green, blue, red  
Green, blue, red, yellow  
None of the above  
Don't know

This question was included in the survey to ensure that respondents were paying attention. Only those survey respondents who correctly indicated that the colors were "green, red, blue, yellow" were eligible to continue. Next, survey respondents were asked the following questions to determine whether they had bought a sports video game in the past 5 years:

(S5) In the past 5 years, did you buy any of the following items?#

An activity tracker  
A camera or camcorder  
A cell phone  
A gaming headset  
A laptop or tablet  
A smartwatch  
A video game  
Wireless earbuds or earphones  
None of the above  
Don't know

*IF VIDEO GAME:*

(S6) In the past 5 years, which of the following types of video games, if any, did you buy?#

Music or rhythm games  
Action or adventure games  
Sports games  
Role-playing games  
None of the above  
Don't know

Survey respondents who had bought a sports video game in the past 5 years were asked the following questions to determine whether they had bought a relevant NBA 2K video game:



(S7) In the past 5 years, which of the following types of sports video games, if any, did you buy?#

Baseball  
Basketball  
Football  
Hockey  
Skateboarding  
None of the above  
Don't know

*IF BASKETBALL:*

(S8) In the past 5 years, did you buy any of the following NBA 2K video games?

NBA 2K14  
NBA 2K15  
NBA 2K16  
NBA 2K17  
NBA 2K18  
None of the above  
Don't know

To qualify for the Jay Survey, respondents had to indicate that they had bought one of the following NBA 2K video games in the past 5 years: NBA 2K14, NBA 2K15, NBA 2K16, NBA 2K17, or NBA 2K18. These survey respondents were asked one additional qualifying question:

(S9) Do you or does anyone in your household work for any of the following types of organizations or companies?#

A government agency  
A video game company or store  
An advertising agency or marketing research firm  
None of the above  
Don't know

Survey respondents were not eligible to participate in the Jay Survey if they said that someone in their household worked for a video game company or store, or an advertising agency or marketing research firm. This is because these respondents might have special knowledge about the subject of the survey – namely, reasons for buying sports video games.

In all, 8,267 randomly-selected individuals age 16 to 55 were screened for eligibility, and of these, 507 (6%) qualified for the Jay Survey (*i.e.*, they had bought a relevant NBA 2K video

game in the past 5 years, and they did not work for a video game company or store or for an advertising agency, or a marketing research firm).<sup>7</sup>

### Questions for Qualified Respondents

The 507 individuals who qualified for the Jay Survey were told the following:

Our next questions are about the NBA 2K video game(s) you bought. We would like to assure you that we are only interested in your opinions and beliefs. If you do not know the answer to a question or do not have an opinion or belief, please indicate this.

Qualified survey respondents were asked up to four sets of questions. The first set of questions collected information about the reasons why survey respondents bought an NBA 2K video game and included the following open-ended questions (questions that required respondents to answer in their own words):

(A1) What were the main reasons why you bought an NBA 2K video game?

*IF NOT "DON'T KNOW":*

(A2) What were the other reasons, if any, why you bought an NBA 2K video game?

The second set of questions was "closed-ended" (the questions included response categories from which respondents selected their answers). This set of questions asked survey respondents about 20 possible reasons for buying an NBA 2K video game, including the depiction of the NBA players' face, body or other aspects of their appearance. Additionally, survey respondents were asked about a fictitious feature, the "XTJ feature," which was created by randomly generating three letters.<sup>8</sup> The purpose of the fictitious item was to determine the

<sup>7</sup> The email invitation sent to randomly-selected individuals is included at the end of this appendix. Of the 8,267 individuals who responded to the email invitation and were asked the eligibility questions, 7,760 did not qualify for the Jay Survey for the following reasons: a) they were not age 16 to 55 or their age or gender did not match the information in the panel database (500 individuals); b) they did not agree to complete the survey on their own (42 individuals); c) they did not accurately identify the order of the colors they were shown (96 individuals); d) they did not buy any video games in the past 5 years (4,550 individuals); e) they did not buy sports video games in the past 5 years (1,899 individuals); f) they did not buy basketball video games in the past 5 years (574 individuals); g) they did not buy a relevant NBA 2K video game in the past 5 years (51 individuals), or h) they or a member of their household worked for a video game company or store, or for an advertising agency or marketing research firm (48 individuals).

<sup>8</sup> NBA 2K video games do not have an "XTJ feature."

amount of guessing or "noise" in the Jay Survey. The second set of questions was worded, as follows:

(B1) Which of the following items, if any, were a reason why you bought an NBA 2K video game? #

I or a family member likes basketball  
The ease of playing the game  
The speed of gameplay  
The overall quality of the graphics  
The soundtrack  
The camera angles during gameplay  
The number of options  
The inclusion of current NBA teams  
The inclusion of other teams besides current NBA teams (such as the classic, historic, or national teams)  
The crowd animations  
The pre-game, half-time, and/or post-game shows  
The different arenas  
The ability to build your own team or create an expansion team  
The ability to customize a player's game style, tendencies or attributes  
The ability to maintain a trading card collection  
The ability to play tournament-style competitions against other players  
The ability to collect or purchase cards that unlock players and other items  
The depiction of the NBA players' movements  
The depiction of the NBA players' face, body or other aspects of their appearance  
The price/value  
The XTJ feature  
None of the above  
Don't know

*IF MORE THAN ONE REASON SELECTED:*

(B2) Which one of these was the most important reason why you bought an NBA 2K video game?

*IF MORE THAN TWO REASONS SELECTED:*

(B3) Which one of these was the next most important reason why you bought an NBA 2K video game?

Survey respondents who said the depiction of the NBA players' face, body or other aspects of their appearance was a reason for buying an NBA 2K video game in Question B1 were asked a third set of questions. The purpose of the third set of questions was to determine

whether the depiction of the appearance of LeBron James, Eric Bledsoe or Kenyon Martin was a reason for buying an NBA 2K video game. This set of questions included the following items:

(C1) Was the depiction of the appearance of any particular NBA player or players a reason why you bought an NBA 2K video game?

*IF YES:*

(C2) Which NBA player or players' depiction was a reason why you bought an NBA 2K video game?

Survey respondents who identified one or more NBA players whose appearance was important to depict in Question C2 were asked a fourth set of questions.<sup>9</sup> The purpose of the fourth set of questions was to determine whether the tattoos on LeBron James, Eric Bledsoe, or Kenyon Martin were a reason why survey respondents bought an NBA 2K video game. This set of questions included the following items:

(C3) In the NBA 2K video game(s) you bought, were there any particular features or aspects you thought were important to depict of these NBA 2K players' appearance: [ANSWER FROM C2]?

*IF YES:*

(C4) What features or aspects were important to depict of these NBA players' appearance: [ANSWER FROM C2]?

## **B. Survey Administration**

The Jay Survey was double-blind (neither the persons administering the survey nor the survey respondents were told: a) the names of the sponsors of the survey, b) that the survey was intended to determine the reasons for buying an NBA 2K video game and whether the tattoos on LeBron James, Eric Bledsoe, or Eric Martin were a reason for buying an NBA 2K video game, or c) that the survey was being conducted in connection with litigation). The Jay Survey was conducted between March 9 and March 28, 2018, and it was performed according to accepted

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<sup>9</sup> Survey respondents who said "don't know" in the response Question C2 were not asked any additional questions.

survey standards and in conformity with the guidelines discussed in the Federal Manual for Complex Litigation, 4th Ed. §11.493 (2004).<sup>10</sup>

### C. Characteristics of Individuals Screened for Eligibility

As intended, the demographic characteristics of the 8,267 individuals who were screened for eligibility are similar to those of all persons age 16 to 55 in the U.S. (See Table E-1.)

<b>Table E-1</b> <b>Demographic Characteristics for All U.S. Persons Age 16 to 55 and</b> <b>for Persons Screened for Eligibility for the Jay Survey*</b>		
	<b>U.S. Persons Age 16 to 55</b>	<b>Persons Screened for Eligibility (n = 8,267)</b>
<b>Region</b>		
Northeast	17%	19%
Midwest	21	22
South	38	37
West	24	22
<b>Age</b>		
16 to 29	36%	30%
30 to 44	36	37
45 to 55	28	33
<b>Gender</b>		
Male	50%	44%
Female	50	56
<b>Race</b>		
White	58%	67%
Black	13	11
Hispanic	19	12
Other/Multiple	10	10

\* Based on American Community Survey data collected by the U.S. Census Bureau and demographic information in the YouGov panel database. "n" refers to the number of persons who were screened for eligibility for the Jay Survey.

<sup>10</sup> The population for the Jay Survey was properly defined as individuals age 16 to 55 who had bought a relevant NBA 2K video game in the past 5 years. The questions asked in the Jay Survey were clear and not leading. The data gathered were accurately reported, and the data were analyzed in accordance with accepted statistical principles. The Jay Survey was conducted, under my direction, by survey research professionals following proper survey procedures, and the entire process was conducted so as to ensure objectivity.

## D. Characteristics of Jay Survey Respondents

As shown in Table E-2, the 507 individuals who qualified for the Jay Survey included a greater percentage of men, relative to all persons age 16 to 55 in the U.S. This is because men were more likely than women to have bought a relevant NBA 2K video game in the past 5 years.

<b>Table E-2</b> <b>Demographic Characteristics for All U.S. Persons Age 16 to 55 and</b> <b>for Persons Who Qualified for the Jay Survey*</b>		
	<b>U.S. Persons</b> <b>Age 16 to 55</b>	<b>Jay Survey</b> <b>Respondents</b> <i>(n = 507)</i>
<b>Region</b>		
Northeast	17%	18%
Midwest	21	24
South	38	37
West	24	21
<b>Age</b>		
16 to 29	36%	32%
30 to 44	36	51
45 to 55	28	17
<b>Gender</b>		
Male	50%	68%
Female	50	32
<b>Race</b>		
White	58%	52%
Black	13	24
Hispanic	19	14
Other/Multiple	10	10

\* Based on American Community Survey data collected by the U.S. Census Bureau and demographic information in the YouGov panel database. "n" refers to the number of persons who qualified for the Jay Survey.

Based on the overall design and execution of the Jay Survey, the survey provides representative and reliable information regarding individuals age 16 to 55 who bought an NBA 2K video game in the past 5 years.

## Email Invitation

Can't read this email? [Click here to view a desktop version.](#)

**YouGov**<sup>®</sup> What the world thinks

Hi InvitationName,

You have been selected to share your opinions in a new YouGov survey.

We know your time is valuable. As a way of showing our thanks, you'll be awarded points when you complete every survey we email you. The longer the survey, the more points you earn.

**Start Now**

If you cannot view or click on the button above, please copy and paste this address into your browser:

**[SurveyLink](#)**

Thank you for being an active member of the YouGov community!

Kelly Connor  
YouGov



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For more information on YouGov visit <http://today.yougov.com>. If you have any questions please read our [membership rules](#) and [Privacy Policy](#).

To ensure reliable delivery please add [help.us@yougov.com](mailto:help.us@yougov.com) to your address book.

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## **Appendix F**

### **Background Information on the YouGov Online Panel**

- *YouGov Survey Procedures*
- *YouGov Answers to ESOMAR Questions*





## **Survey Procedures:**

### Information Related to the Treatment of Human Subjects

**Updated on January 30, 2012**

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## **YOUgov PANEL RECRUITMENT**

The YouGov panel, a proprietary opt-in survey panel, is comprised of 1.2 million U.S. residents who have agreed to participate in YouGov's Web surveys. At any given time, YouGov maintains a minimum of five recruitment campaigns based on salient current events.

Panel members are recruited by a number of methods to help ensure diversity in the panel population. Recruiting methods include Web advertising campaigns (public surveys), permission-based email campaigns, partner sponsored solicitations, telephone-to-Web recruitment (RDD based sampling, and mail-to-Web recruitment (voter registration based sampling).

The primary method of recruitment for the YouGov panel is Web advertising campaigns that target respondents based on their keyword searches. In practice, a search in Google may prompt an active YouGov advertisement inviting their opinion on the search topic. At the conclusion of the short survey respondents are invited to join the YouGov panel in order to directly receive and participate in additional surveys. After a double opt-in procedure, where respondents must confirm their consent again by responding to an email, the database checks to ensure the newly recruited panelist is in fact new and that the address information provided is valid.

Additionally, YouGov augments the panel with difficult to recruit respondents by soliciting panelists in telephone and mail surveys. For instance, in the fall and winter of 2006, YouGov completed telephone interviews using RDD sampling and invited respondents to join the online panel. Respondents provided a working email where they could receive an electronic invitation and confirm their consent and interest in receiving and participating in YouGov Web surveys. YouGov also employed registration based sampling, inviting respondents to complete a pre-election survey online. At the conclusion of that survey, respondents were invited to become YouGov members and receive additional survey invitations to their email address. YouGov also conducted telephone-to-Web recruitment in the fall and winter of 2010.

By utilizing different modes of recruitment continuously over time, this ensures that hard-to-reach populations will be adequately represented in survey samples. Participants are not paid to join the YouGov panel, but do receive incentives through a loyalty program to take individual surveys.

## **YG PRIVACY AND CONSENT STATEMENT**

The information below is provided to each respondent when they provide their contact information and indicate they would like to receive survey invitations from YouGov.

### **Consent Statement**

YouGov invites people to complete self-administered surveys via the web using a panel of respondents. Panelists are provided the privacy policy below when they voluntarily sign up and are provided a link to this with each study request. Specifically, each invitation states that their participation is voluntary and confidential.

Our detailed privacy policy is elaborated at <http://today.yougov.com/privacy/>, see below.

### **Privacy Policy**

Effective as of March 1, 2011.

The most recent update to the privacy policy changed our company name from YouGovPolimetrix to YouGov. Some other clarifications of policy were also made.

The YouGov website is operated by YouGov, a non-partisan polling firm headquartered in Palo Alto, California and one of the YouGov companies. YouGov is committed to answering important political and social questions and YouGov is designed to give people a chance to share their opinions about those important topics.

The information our users provide is absolutely confidential. When a user registers for the panel, we ask a few basic questions to verify demographic information (e.g., age, gender, state). We do not sell or disclose this personal information to anyone at any time, except under limited conditions as specifically noted below, though we may report the information in aggregate form (e.g., "65 percent of those aged 55 and older reported a high level of interest in the president's State of the Union address.")

### **About This Privacy Policy**

YouGov respects the privacy of all of its respondents. This Privacy Policy outlines what personally identifiable information is collected, how the information is used, with whom the information may be shared, and the security procedures in place to protect the loss, misuse, or alteration of information under our control. We reserve the right to modify this privacy statement at any time, so please review it frequently. If we make material changes to this policy, we will notify you here.

## **Non-Personal Information We Collect**

To register with YouGov, we require respondents to submit Personally Identifiable Information. Respondents are responsible for ensuring the accuracy of the Personally Identifiable Information they submit to YouGov.

Without registration to the YouGov panel, the only information we may collect is Non-Personal Information through the use of Cookies or Web Beacons.

As is true of most websites, we gather certain information automatically and store it in log files. This information includes internet protocol (IP) addresses, browser type, internet service provider (ISP), referring/exit pages, operating system, date/time stamp, and clickstream data. We use this information, which does not identify individual users, to analyze trends, administer the site, track users' movements around the site and gather demographic information about our user base as a whole.

### **A. Cookies**

The information collected by Cookies allows us to monitor how many people are using our website, how many people open our e-mails, and determine for what purposes these actions are being taken. Cookies are also used to facilitate a user's log-in, as navigation aides, and as session timers, but not to retain Personal Information. Cookies used by YouGov are also used to restrict underage use of the tools. Most browsers offer instructions on how to reset the browser to reject Cookies in the "Help" section of the toolbar. We do not link Non-Personal Information from Cookies to Personally Identifiable Information without permission, and do not use Cookies to collect or store Personal Information.

### **B. Web Beacons**

We also may use Web Beacons to collect Non-Personal Information about the use of our website. The information collected by Web Beacons allows us to monitor how many people are using our website, how many people open our e-mails, and determine for what purposes these actions are being taken. Our Web Beacons are not used to track activity outside of our websites. We do not link Non-Personal Information from Web Beacons to Personally Identifiable Information without permission and do not use Web Beacons to collect or store Personal Information.

## **Personally Identifiable Information We Collect**

### **A. Registration**

We collect Personally Identifiable Information, such as name, mailing address and e-mail address, that our members provide to us when they register as YouGov panelists. We use the Personally Identifiable Information to gather opinions on important topics, answer questions, send e-mails about website maintenance and updates, place panelists in the correct regional and political jurisdictions (e.g. the correct congressional district or voting precinct), and inform panelists of significant changes to this Privacy Policy.

### **B. E-mails You Send to YouGov**

This Privacy Policy does not protect you when you send content, business information, ideas, concepts or inventions to YouGov or YouGov by e-mail. If you want to keep content or business information, ideas, concepts or inventions private or proprietary, do not send them in an e-mail.

### **C. Children**

We are committed to protecting the privacy of children. YouGov is not designed or intended to attract children under the age of 18. We do not collect Personally Identifiable Information from any person we actually know is under the age of 14.

### **D. Surveys – Personally Identifiable Information**

When participating in a survey, we may ask panelists to submit Personally Identifiable Information. This Personally Identifiable Information is used for research purposes, and is not used for sales solicitations. When a survey is sponsored by a third party, Aggregate Information of the survey results is reported to the sponsor. Personally Identifiable Information collected through surveys will be used only by YouGov and its operations contractors, and will not be given or sold to a third party without the panelist's consent. You will never receive email from any third party as a result of using the YouGov site, participating in YouGov research activities or becoming a YouGov panel member, unless you specifically opt to do so.

### **E. Surveys – Responses**

Aside from personally identifiable information, YouGov may, in the course of interacting with panel members, gather other types of information ("Operating Information"). YouGov panelists receive survey invitations periodically (weekly or monthly, for example) depending on their stated preferences. These surveys will ask questions about opinions and attitudes toward current affairs.

### **Disclosure of Information**

Except as set forth in this Privacy Policy or as specifically agreed to by you, YouGov will not disclose any Personally Identifiable or Personal information gathered on our websites. We will only release Personally Identifiable or Personal information to third parties: (1) to comply with valid legal requirements such as a law, regulation, search warrant, subpoena or court order; (2) to reduce fraud or criminal activity; (3) to protect the legal rights of YouGov, our customers, our Websites, or the users of our Websites; (4) to allow a purchaser of a YouGov division, or YouGov as a whole, to continue using your information to serve you or as otherwise permitted by this Privacy Statement; or (5) in special cases, such as a physical threat to you or others. In the event that we are legally compelled to disclose Personally Identifiable or Personal information to a third party, we will attempt to notify you unless doing so would violate the law or court order. In addition, we may disclose Personal Information as described below.

### **A. Aggregate Data**

YouGov may provide Aggregate Information to third parties. For example, we might inform third parties regarding the number of users of our website and the activities they conduct while on our site. We might also inform an interested policy group that "30% of our users live east of the Mississippi" or that "25% of our users have registered to vote online." Depending on the circumstances, we may or may not charge third parties for this Aggregate Information. We require parties with whom we share Aggregate Information to agree that they will not attempt to make this information personally identifiable, such as by combining it with other databases.

## **B. Disclosure to YouGov Operations and Maintenance Contractors**

YouGov operations and maintenance contractors sometimes have limited access to Personally Identifiable Information in the course of providing products or services to YouGov. These contractors include vendors and suppliers that provide us with technology, services, or external data or other content. Access to Personally Identifiable Information by these contractors is limited to the information reasonably necessary for the contractor to perform its limited function for YouGov. We also contractually require that our operations and maintenance contractors 1) protect the privacy of Personally Identifiable Information consistent with this Privacy Policy, and 2) not use or disclose Personally Identifiable Information for any purpose other than providing us with products and services.

## **Data Security and Responsibility**

Your Personal Information, Demographic Information, and Operating Information will generally be stored in our YouGov databases, which are located in the United States. YouGov uses firewalls to protect information held in our servers, and requires all employees to abide by our Privacy Policy and be subject to disciplinary action if they violate it. YouGov also backs up our systems to protect the integrity of the Personally Identifiable and Personal information we collect.

Despite our efforts to protect the Personally Identifiable Information and Personal information of our panelists, there is always some risk that an unauthorized third party may find a way around our security systems or that transmissions of information over the Internet will be intercepted. However, YouGov will always be vigilant in minimizing such risk to the best of our ability.

## **PROTECTION OF HUMAN SUBJECTS**

YouGov works with the Western IRB to ensure its research protocol and specific studies are consistent with Good Clinical Practices as defined under the U.S. Food and Drug Administration (FDA) regulations and the International Conference on Harmonisation (ICH) guidelines.

Additionally, the YouGov research protocol has been reviewed and approved for Federalwide Assurance (FWA) by the Department of Health and Human Services (DHHS). The FWA number assigned to YouGov, Inc., is FWA00010960. YouGov's FWA approval is listed on the Department of Health and Human Services website at <http://ohrp.cit.nih.gov/search/search.aspx>. Funding agencies may use this website to verify that YouGov holds an active OHRP-approved FWA. The expiration date for our FWA renewal is 10/13/2016.

All members of the Scientific Research team have IRB training.

## **HOSTING FACILITIES**

YouGov hosts its servers at the Equinix data center facility in Palo Alto (PAIX) which provides us with highly-available, high performance, mission critical Internet access. This facility has redundant backup power generators and uninterruptible power systems, along with high speed fiber links to multiple carriers. YouGov purchases "clear-channel" private Internet connectivity to avoid network congestion. In addition to multiple connections to the major Tier 1 Internet backbones like Level 3 and Williams Communications, our Web hosting facility also maintains fiber connectivity to InterNAP. InterNAP utilizes a proprietary network architecture and advanced routing technologies, which enables them to route data to and from destinations in a manner that minimizes the use of congested public exchanges and private peering points. This routing enables higher transmission speeds and lower instances of data packet loss. Our facilities are provisioned with the connectivity and dynamic bandwidth scalability needed to handle high-bandwidth applications, traffic spikes, and network outage issues. Access to the facility is by appointment, confirmed by credentials and secure passcode. The YouGov servers are housed in dedicated racks with locked doors that can only be accessed by authorized YouGov personnel. PAIX is SAS-70 certified.

## **DATA SECURITY AND RESPONSIBILITY**

YouGov uses software-based firewalls, a DMZ, and multiple VLANs to secure external access to our servers and internal networks. Additional multi-layer software controls protect the integrity of the personally identifying and other confidential respondent information. Databases are backed up continuously; all other information is backed up daily. The back-up system has been documented and data retrievals from the back-up system have been tested for integrity.

Access to confidential respondent information is limited to authorized users in the company's survey and information services groups and is password protected. Access rights can be changed at any time by the CTO and password security is strictly enforced. YouGov has not experienced any known security breaches since inception and regularly audits its security procedures.



## YouGov Incentives

YouGov manages an incentive program as a thank you for respondent participation. Survey respondents are awarded "PollingPoints" that are redeemable for the following small gifts:

Points	Reward
17,500	YouGov Tote Bag
20,000	YouGov T-Shirt
25,000	Restaurant.com \$25 Gift Certificate
30,000	Two Movie Tickets – AMC Theaters
30,000	Two Movie Tickets – Regal Entertainment Group Theaters
30,000	Two Movie Tickets – Cinemark Theaters
35,000	Darden Restaurants \$20 Gift Card
45,000	Diningdough.com \$25 Gift Certificate and 2 Fandango. com Movie Tickets
50,000	Web Camera – Microsoft LifeCam VX
60,000	Diningdough.com \$50 Gift Certificate and 2 Fandango.com Movie Tickets
70,000	Darden Restaurants \$50 Gift Card
80,000	iPod Shuffle
100,000	\$100

Each panelist receives between 500 and 5,000 points to complete a survey. As a policy, panelists who are invited to a particular survey but then identified as ineligible are provided incentives to remove the motivation for falsifying information. In general, survey reward policies and incentives are intended to be unattractive to professional survey takers but serve as a genuine token of appreciation for YouGov panelists.

**EXAMPLE OF YG SURVEY INVITATION**



Dear <NAME>,

You have been selected to share your opinions in a new YouGov survey.

To get started please click the button below. If you cannot view or click on the button, please copy and paste this address into your browser:

<Survey link>

<Start Now>

We know your time is valuable, and as a way of showing our thanks, you will be awarded at least 500 points when you complete this survey, and every emailed YouGov survey. The longer the survey, the more points you earn.

Notice our new name and look? Although the PollingPoint name is gone, rest assured that the heart of PollingPoint remains at YouGov. Your current points remain the same, and you'll continue to earn points for new surveys the same as before.

Thank for being an active member of the YouGov community!

Kelly Connor

YouGov

For more information on YouGov visit <http://today.yougov.com>. If you have any questions please read our membership rules and Privacy Policy.

To ensure reliable delivery please add [help.us@yougov.com](mailto:help.us@yougov.com) to your address book.

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Comments or concerns? Email [help.us@yougov.com](mailto:help.us@yougov.com), or write to:

YouGov • 285 Hamilton Avenue, Suite 200 • Palo Alto, CA 94301

## **FREQUENTLY ASKED QUESTIONS ON DATA SECURITY**

How do we prevent one person from completing surveys multiple times?  
Once a respondent completes a survey the "visa" assigned to that person is invalidated so the survey cannot be taken again.

Who will be maintaining the YouGov web site/servers?  
YouGov staff maintains the servers and web sites.

Who will have access to the data collected & back-up files?  
VP of Survey Operations and Statistical Analyst; Systems Administrators; and potentially the lead software developers under a need to know basis.

Are the data stored while the respondent is answering questions or is that data only stored at the end when the survey is submitted?  
The answers are stored each time a user submits a page.

How is confidentiality maintained during the transmission of data?  
No identifying personal information is transmitted while the survey is taken. The responses are identified only by an unique, coded "visa" that can be linked with the respondent's personal information only on the database server behind our firewall in a secure local zone.

Does YouGov monitor web sites visitation and e-mails?  
Internet access to ports is firewall limited. Off-site e-mail access is over SSL connections. Security logs are monitored for inappropriate activity.

When the subject submits their data to the web server information about the subject is of attached (IP address etc.); how will information be protected?  
Once acquired, respondents' data is only transmitted over internal networks behind firewalls or over encrypted VPN connections. Personally identifying information is not transmitted or stored together with survey answers.



# ESOMAR 28

## 28 QUESTIONS TO HELP ONLINE RESEARCH BUYERS



The primary aim of these 28 Questions is to increase transparency and raise awareness of the key issues for researchers to consider when deciding whether an online sampling approach is fit for their purpose. Put another way, the aim is to help researchers to ensure that what they receive meets their expectations. The questions are also designed to introduce consistent terminology for providers to state how they maintain quality, to enable buyers to compare the services of different sample suppliers. Notes on the context of the questions explain why the questions should be asked and which issues researchers should expect to be covered in the answer.

These new questions replace ESOMAR's "26 Questions to help Research Buyers of Online Samples". ESOMAR has updated the text to recognize the ongoing development of techniques. While some of the questions remain constant, new questions have been added to incorporate new techniques and new technology in this area. In particular, this revision recognises the broad trend within the industry to build online samples from multiple sources rather than relying on a single panel.

It should be noted that these 28 Questions focus on the questions that need to be asked by those buying online samples. If the sample provider is also hosting the data collection you will need to ask additional questions to ensure that your project is carried out in a way that satisfies your quality requirements.

The 28 Questions complement ESOMAR's Guideline to Online Research which was revised in 2011 to add updated legal and ethical guidance and new sections on privacy notices, cookies, downloadable technology, and interactive mobile.

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## COMPANY PROFILE

## 1. What experience does your company have in providing online samples for market research?

*Context: This answer might help you to form an opinion about the relevant experience of the sample provider. How long has the sample provider been providing this service and do they have for example a market research, direct marketing or more technological background? Are the samples solely provided for third party research, or does the company also conduct proprietary work using their panels?*

YouGov is an international, full-service online market research agency offering custom research, omnibus, field and tab services, qualitative research, syndicated products and market intelligence reports. Our mission is to supply a continuous, live stream of data and insight into what people are thinking and doing all over the world, so that companies, governments and institutions can better serve the people that sustain them.

Founded in the UK in 2000, YouGov is considered the pioneer of online market research. With our global panel of more than 3 million respondents, and offices in the United Kingdom, the United States, Europe and the Middle East, we offer our clients international results faster and more cost-effectively than traditional methods, with no compromise on quality.

## SAMPLE SOURCES AND RECRUITMENT

## 2. Please describe and explain the type(s) of online sample sources from which you get respondents. Are these databases? Actively managed research panels? Direct marketing lists? Social networks? Web intercept (also known as river) samples?

*Context: The description of the types of sources a provider uses for delivering an online sample will provide insight into the quality of the sample.*

YouGov maintains a highly engaged panel of respondents who have specifically opted in to participate in online research activities.

The value of our panel, as opposed to many other types of online sample sources, lies in having continuous access to a responsive audience ready-profiled on important demographic, attitudinal and lifestyle attributes. This enables us to execute a wide range of projects, from nationally representative samples to re-contact surveys with hard-to-find audiences.

## 3. If you provide samples from more than one source: How are the different sample sources blended together to ensure validity? How can this be replicated over time to provide reliability? How do you deal with the possibility of duplication of respondents across sources?

*Context: The variation in data coming from different sources has been well documented. Overlap between different panel providers can be significant in some cases and de-duplication removes this source of error, and frustration for respondents.*

Due to the size and strength of our own panel, YouGov does not often require additional sample. When we do include samples from external providers, it is only with the prior approval of our clients, and we will only use pre-identified partners who work to our approved standards. In such cases, our technology allows us to detect users taking the same survey with other providers, so we can remove them from the data as required.



4. Are your sample source(s) used solely for market research? If not, what other purposes are they used for?

*Context: Combining respondents from sources set up primarily for different purposes (like direct marketing for example) may cause undesirable survey effects.*

The YouGov panel is used solely for market research.

5. How do you source groups that may be hard to reach on the internet?

*Context: Ensuring the inclusion of hard-to-reach groups on the internet (like ethnic minority groups, young people, seniors etc.) may increase population coverage and improve the quality of the sample provided.*

YouGov actively recruits hard-to-reach respondents (such as younger people and those from ethnic minorities) via a network of partners with access to a wide range of online sources that cater to these groups. These sources have specific experience in recruiting these audiences for online activities.

These recruitment programmes include search engine optimization (SEO), affiliate networks, niche websites, and refer-a-friend programmes.

All recruitment sources, for hard-to-reach audiences or anyone else, are monitored to ensure that respondents are profiled, responsive, and engaged in the survey-taking experience.

6. If, on a particular project, you need to supplement your sample(s) with sample(s) from other providers, how do you select those partners? Is it your policy to notify a client in advance when using a third party provider?

*Context: Many providers work with third parties. This means that the quality of the sample is also dependent on the quality of sample providers that the buyer did not select. Transparency is essential in this situation. Overlap between different providers can be significant in some cases and de-duplication removes this source of error, and frustration for respondents. Providers who observe process standards like the ISO standards are required to give you this information.*

As noted above, we rarely need to supplement our sample with that from other sources. On those occasions when external sample is required, we always notify the client so that they can take part in the decision about when and how to proceed with a different supplier.

External sample partners are chosen by their ability to target hard-to-reach audiences, and by the quality and timeliness of their work. Our technology allows us to detect users taking the same survey with other providers, and thus avoid duplicate responders.

## SAMPLING AND PROJECT MANAGEMENT

7. What steps do you take to achieve a representative sample of the target population?

*Context: The sampling processes (i.e. how individuals are selected or allocated from the sample sources) used are the main factor in sample provision. A systematic approach based on market research fundamentals may increase sample quality.*

Using YouGov's proprietary sampling technology, we begin by framing quotas based upon the census or profile of the required population. This frame is the basis on which our sampling software controls the flow of members into each survey.

Our sampling system will randomly select from our available panel, and allocate to surveys according to the quotas set.

8. Do you employ a survey router?

*Context: A survey router is a software system that allocates willing respondents to surveys for which they are likely to qualify. Respondents will have been directed to the router for different reasons, perhaps after not qualifying for another survey in which they had been directly invited to participate, or maybe as a result of a general invitation from the router itself. There is no consensus at present about whether and how the use of a router affects the responses that individuals give to survey questions.*

YouGov's proprietary sampling software includes a router. This removes the potential for self-selection on surveys, and increases our ability to deliver lower incidence samples within a short time frame.





9. If you use a router: Please describe the allocation process within your router. How do you decide which surveys might be considered for a respondent? On what priority basis are respondents allocated to surveys?

*Context: Biases of varying severity may arise from the prioritisation in choices of surveys to present to respondents and the method of allocation.*

Panelists receive an invitation email containing a survey link. When they access the link the router will check against quotas on all live surveys and allocate them to a survey for which they qualify. We can manually control prioritisation (for example to ensure that a particularly urgent client survey can meet quotas in the necessary time frame), but allocation is predominantly determined by the quotas defined in the frame for each survey.

If, following more detailed screening, a respondent doesn't qualify for the survey to which they are allocated they will be returned to the router and allocated to another survey.

10. If you use a router: What measures do you take to guard against, or mitigate, any bias arising from employing a router? How do you measure and report any bias?

*Context: If Person A is allocated to Survey X on the basis of some characteristic then they may not be allowed to also do Survey Y. The sample for Survey Y is potentially biased by the absence of people like Person A.*

In any case where we consider there could be a potential for bias resulting from use of a router, we will revert to a manual invitation process. All surveys running on the router will have sampling controls on all variables likely to affect the results.

11. If you use a router: Who in your company sets the parameters of the router? Is it a dedicated team or individual project managers?

*Context: It may be necessary to try to replicate your project in the future with as many of the parameters as possible set to the same values. How difficult or easy will this be?*

All parameters are set and controlled by the panel team within our Operations department. These are only changed following explicit consultation with all affected parties.

12. What profiling data is held on respondents? How is it done? How does this differ across sample sources? How is it kept up-to-date? If no relevant profiling data is held, how are low incidence projects dealt with?

*Context: The usefulness to your project of pre-profiled information will depend on the precise question asked and may also depend on when it was asked. If real time profiling is used, what control do you have over what question is actually asked?*

We collect over 500 data points on panelists through the initial opt-in process, in ongoing profiling efforts, and from survey responses. Basic profile information is stored for all panelists, with less frequently used attributes covered to varying degrees. Collection of this long tail of opinion and behavioural data is typically driven by client demand.

Beyond this, we have a proprietary system that automatically updates panelist demographics from survey data (typically every 3-6 months) depending on the relative frequency with which particular data points are likely to change.

13. Please describe your survey invitation process. What is the proposition that people are offered to take part in individual surveys? What information about the project itself is given in the process? Apart from direct invitations to specific surveys (or to a router), what other means of invitation to surveys are respondents exposed to? You should note that not all invitations to participate take the form of emails.

*Context: The type of proposition (and associated rewards) could influence the type of people who agree to take part in specific projects and can therefore influence sample quality. The level of detail given about the project may also influence response.*

In the majority of cases, respondents are emailed a generic survey invitation, whether invited directly to a study or via a router. Once they are allocated to a particular survey and have passed any additional screening, they are immediately informed of the topic, estimated length and their reward for taking part.

For qualitative studies respondents are given more information in the invitation itself on the topic and nature of the survey, and the amount of time they will have to make available to participate.





**14. Please describe the incentives that respondents are offered for taking part in your surveys. How does this differ by sample source, by interview length, by respondent characteristics?**

*Context: The reward or incentive system may impact on the reasons why people participate in a specific project and these effects can cause bias to the sample.*

Panelists are typically motivated by two things:

- Points for completing a survey (i.e., rewards)
- Understanding the impact of their contribution (i.e., "having their say")

YouGov's incentive programme is points-based. Point values are determined by survey length and are allocated upon survey completion. Respondents accumulate points for completing surveys and are able to redeem these either for entries into prize draws with a wide range of prizes or towards a cash payment.

In addition, we also share key survey results and actual data from selected surveys, and are constantly developing ways to enhance this feedback loop. Results are posted on the panellist areas of the website, and regular newsletters are used to highlight media coverage of YouGov survey results.

**15. What information about a project do you need in order to give an accurate estimate of feasibility using your own resources?**

*Context: The "size" of any panel or source may not necessarily be an accurate indicator that your specific project can be completed or completed within your desired time frame.*

The information we need stems from the client's requirements:

- Who do they wish to survey, in terms of demographics, behaviours and/or attributes? This will enable us to estimate incidence and develop quotas.
- What do they want to know? This will enable us to design the survey(s) to meet their needs and understand the length and nature of the survey(s) we will be running.
- When do they want to know it? Defining an end date will allow us to manage the client's survey(s) as part of the suite of fieldwork we are running, to ensure optimum response.

**16. Do you measure respondent satisfaction? Is this information made available to clients?**

*Context: Respondent satisfaction may be an indicator of willingness to take future surveys. Respondent reactions to your survey from self-reported feedback or from an analysis of suspend points might be very valuable to help understand survey results.*

YouGov asks for satisfaction scores from every panellist at the end of a survey experience, both explicit (using five specific questions) and implicit (using response metadata). These data are used internally to evaluate and improve the YouGov experience for panellists.

YouGov also carries out its own research on research, exploring in more detail what makes for a good respondent experience, identifying drivers of – and developing solutions for – respondent fatigue.

**17. What information do you provide to debrief your client after the project has finished?**

*Context: One should expect a full sample provider debrief report, including gross sample, start rate, participation rate, drop-out rate, the invitation/contact text, a description of the field work process, and so on. Sample providers should be able to list the standard reports and metrics that they make available.*

Upon request, we will happily provide clients with disposition reports that contain email metrics (such as start and completion rates, and so on), invitation examples, and any other details relating to the project fielding.



## DATA QUALITY AND VALIDATION

18. Who is responsible for data quality checks? If it is you, do you have in place procedures to reduce or eliminate undesired within survey behaviours, such as (a) random responding, (b) illogical or inconsistent responding, (c) overuse of item non-response (e.g. "Don't Know") or (d) speeding (too rapid survey completion)? Please describe these procedures.

*Context: The use of such procedures may increase the reliability and validity of the survey data.*

We have several techniques available to us to ensure that clients receive the highest quality data on which to base analysis. Specifically, we have mechanisms to identify and remove:

- Speeders
- Those that fail trap questions
- Habitual non-responders

The suite of quality checks will be defined with the client at the start of a project to ensure they align with any existing quality standards. In addition to removing fraudulent responses from the survey data, those panellists that fail these tests are marked in the database and ultimately removed from the panel should they turn out to be consistent offenders.

19. How often can the same individual be contacted to take part in a survey within a specified period whether they respond to the contact or not? How does this vary across your sample sources?

*Context: Over solicitation may have an impact on respondent engagement or on self-selection and non-response bias.*

On average, panellists complete a survey no more than once per week, a threshold that ensures continued engagement without over-burdening panellists with too many surveys.

We monitor and control the number and frequency of invitations and completions both at an overall level and within subject areas.

20. How often can the same individual take part in a survey within a specified period? How does this vary across your sample sources? How do you manage this within categories and/or time periods?

*Context: Frequency of survey participation may increase the risk of undesirable conditioning effects or other potential biases.*

Controls are set on a study-by-study basis. We can control to whom invitations are sent based on previous studies they have completed, and within whatever time frame is specified.

21. Do you maintain individual level data such as recent participation history, date of entry, source, etc., on your survey respondents? Are you able to supply your client with a project analysis of such individual level data?

*Context: This type of data per respondent including how the total population is defined and how the sample was selected and drawn, may increase the possibilities for analysis of data quality.*

Though not generally relevant to clients, we do store additional data on the effectiveness of our recruiting partners. We can evaluate the quality of a source by understanding the longevity, response frequency, and participation history at an individual and source level.



22. Do you have a confirmation of respondent identity procedure? Do you have procedures to detect fraudulent respondents? Please describe these procedures as they are implemented at sample source registration and/or at the point of entry to a survey or router. If you offer B2B samples what are the procedures there, if any?

*Context: Confirmation of identity can increase quality by decreasing multiple entries, fraudulent panellists etc.*

YouGov applies a number of checks to ensure the quality of survey data, including, for example, trap questions that test panellist responses against pre-collected demographic data.

The suite of quality checks available allow us to detect fraudulent responses as well as duplicate respondents, and where panellists fail quality checks they are marked in the database as suspect and are removed from the panel if they turn out to be consistent offenders.

## POLICIES AND COMPLIANCE

23. Please describe the 'opt-in for market research' processes for all your online sample sources.

*Context: The opt-in process indicates the respondents' relationship with the sample source provider. The market generally makes a distinction between single and double opt-in. Double opt-in refers to the process by which a check is made to confirm that the person joining a panel or database wishes to be a member and understands what to expect (in advance of participating in an actual survey for a paying client).*

YouGov uses a double opt-in procedure across all panels. At the point of the first opt-in panellists are asked to confirm they are happy to accept the Terms and Conditions of membership. Only once they've agreed to these will they be sent a confirmation email and a link to double opt-in and activate their panellist account.

24. Please provide a link to your Privacy Policy. How is your Privacy Policy provided to your respondents?

*Context: Not complying with local and international privacy laws might mean the sample provider is operating illegally. An example privacy policy is given in the ESOMAR Guideline for Online Research.*

YouGov takes data protection and panellist privacy very seriously. Our Privacy Policy can be found at <http://www.yougov.co.uk/privacy-policy> and covers key topics including:

- Use of personally identifiable information
- Disclosure of information
- Data security



**25. Please describe the measures you take to ensure data protection and data security.**

*Context: The sample provider usually stores sensitive and confidential information on panellists and clients in databases. These data need to be properly secured and backed-up, as does any confidential information provided by the client. The sample provider should be able to provide you with the latest date at which their security has been evaluated by a credible third-party.*

All panellist data, personally identifiable or otherwise, is stored on UK-based servers that are maintained behind secure firewalls, IDS and Threat Management appliances and located in a site that is certified to the latest ISO standard (ISO/IEC 27001:2005). Personally identifiable information is stored separately from all profile data as a means of further securing panellist data.

Access to the data is limited to only those with direct responsibility for panel management and maintenance. In addition, all employees are required to abide by our Privacy Policy and are subject to disciplinary action if it is violated.

**26. What practices do you follow to decide whether online research should be used to present commercially sensitive client data or materials to survey respondents?**

*Context: There are no foolproof methods for protecting audio, video, still images or concept descriptions in online surveys. In today's social media world, clients should be aware that the combination of technology solutions and respondent confidentiality agreements are "speed bumps" that mitigate but cannot guarantee that a client's stimuli will not be shared or described in social media.*

Though there are no flawless methods of protecting in-survey content, YouGov can offer both general and specific protection to web-based client material. First, all YouGov panellists are subject to clear restrictions on the re-use of material by virtue of their agreement to our Terms and Conditions (see <http://yougov.co.uk/panel/terms-and-conditions/>). Second, to augment this general protection, YouGov can limit the lifetime of any link to audio, video and other content, such that it expires after a certain period of time, and cannot thereafter be accessed.

**27. Are you certified to any specific quality system? If so, which one(s)?**

*Context: Being certified may require the supplier to perform tasks in a pre-determined manner and document procedures that should be followed.*

YouGov's third party data centre provider is certified to the following standards, providing industry-approved protection to all YouGov data:

- ISO 9001:2008
- ISO/IEC 27001:2005
- Payment Card Industry Data Security Standard v2.0
- Member of the British Polling Council

**28. Do you conduct online surveys with children and young people? If so, do you adhere to the standards that ESOMAR provides? What other rules or standards, for example COPPA in the United States, do you comply with?**

*Context: The ICC/ESOMAR International Code requires special permissions for interviewing children. These are described in the ESOMAR Online Research Guideline. In the USA researchers must adhere to the requirements of the Children's Online Privacy Act (COPPA). Further information on legislation and codes of practice can be found in Section 6 of ESOMAR's Guideline for Online Research.*

Panel registration is limited to those over 16 years of age, in line with MRS guidelines.

In cases where our research seeks to understand the views of those under the age of 16, YouGov seeks permission from the parent or guardian when screening our own panellists, and ensure all contact is via the parent or guardian and that they are fully aware of the nature of the research at all times.



## GUIDANCE ON PROFESSIONAL STANDARDS

Maintaining consumer trust is integral to effective market, social and opinion research. ESOMAR through its codes and guidelines promotes the highest ethical and professional standards for researchers around the world.

The ICC/ESOMAR Code on Market and Social Research, which was developed jointly with the International Chamber of Commerce, sets out global fundamentals for self-regulation for researchers. It has been undersigned by all ESOMAR members and adopted or endorsed by more than 60 national market research associations worldwide.

The ESOMAR Guideline on Guideline on Online Research is of particular relevance to researchers using online panels and should be read in conjunction with these questions for more explanation of the legal and professional responsibilities of researchers who are collecting and analysing online research data.

In addition, ESOMAR has issued the following guidelines to provide more detailed advice on how to address the legal, ethical, and practical considerations of conducting specific areas of research:

- Guideline on Social media research
- Guideline for Conducting mobile research
- Guideline on Online research
- Guideline on Distinguishing market research from other data collection activities
- Guideline on Passive data collection, observation and recording
- Guideline on Interviewing children and young people
- Guideline on Customer satisfaction studies
- Guideline on Mystery shopping
- Guideline on How to commission research
- ESOMAR/WAPOR Guide to opinion polls

There are also two ISO standards which relate to market research:

ISO Standard 26362 – Access panels in market, opinion and social research - Vocabulary and service requirements

ISO 20252 - Market, opinion and social research - Vocabulary and service requirements

These documents contain useful definitions and explain process quality standards for access panels and research projects. They explain good practice and the information that should be provided to clients. They can be purchased from the International Standards Organisation <http://www.iso.org/iso/home.html>

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## Appendix G

### **Main Reasons and Other Reasons for Buying an NBA 2K Video Game<sup>1,2</sup> (Questions A1 and A2)**

*Base: All Respondents*

- A1. What were the main reasons why you bought an NBA 2K game?
- A2. What were the other reasons, if any, why you bought an NBA 2K game?

- 
- 1 An asterisk (\*) indicates that the survey respondent mentioned the graphics or realism of the game, a plus sign (+) indicates that the survey respondent mentioned the appearance of the players or player characteristics, and a carat symbol (^) indicates that the survey respondent said he/she likes the players but was not more specific.
- 2 A cross-hatch symbol (#) indicates that the survey respondent mentioned LeBron James. None of the survey respondents mentioned Kenyon Martin or Eric Bledsoe.



ID	A1.	A2.
335145692	My husband and son love basketball.	None.
362616528	IDK.	Don't know.
377236747	My kids asked for it.	Don't know.
377842744	I purchased a new Xbox system.	Don't know.
378100258	I like the game.	Don't know.
378156717	Gifts for my children.	Asked specifically for them by my boys.
378252276	Easier for everyone to get the hang of than EA's.	Don't know.
378257949	Wanted a new game for newer context.	No other reasons.
378296318	Have always been a fan of the game series.	To play on my downtime and with friends.
378304582	I love sports, and I like sports games as well.	Because it is fun to play, especially with someone else.
378308796	I like basketball and like to simulate it.	I like games in general.
378312631	I enjoy the series. It's a cool game to play with friends/family, because everyone enjoys it. It's easy to jump into and play.	N/A.
378316172	I have bought them and enjoyed playing them in the past.	N/A.
378324834	Fun, challenging, awesome to play.	Enjoy the fun.
378329098	It's fun to play.	Don't know.
378355421	Sounded like a fun game to play.	My friend has it.
378355638	Don't know.	Not applicable.
378357273	It is an excellent game.	Not sure.
378360631	I like to play.	Don't know.
378362808	To entertain myself and my family.	Don't know.
378369966	It is a fun game to play.	Don't know.
378370045	I enjoy basketball and all aspects of the game.	Fun to play and try to win. Can share with others.
378374422	My husband likes it.	He is a big fan of the NBA.
378377649	It was a gift for my daughter because she wanted it. I also play along with her when I have the time.	I like basketball and play as my favorite team.
378412800	I love the NBA.	The gameplay is excellent.
378422238	My friends were playing it.	It looked fun, and lots of my friends were talking about it.



ID	A1.	A2.
378423219	I enjoy 2K basketball.	People I know play 2K, and I like to play online with them.
378425434	It's a fun game.	Don't know.
378425451*	I love the graphics.	It looks so real.
378426768	Love basketball and the 2K series.	I like to play online with friends and family.
378434248	My friends told me to get it, so I could play against them.	Don't know.
378438355	I loved playing basketball, and my peers had the game, too.	I followed the NBA closely.
378442773	Interesting and unique.	Interactive and unique.
378443172	It's okay, but cool.	It's okay, but cool.
378443814	Don't know.	Not applicable.
378445003	It looked amazing.	Don't know.
378446174	I love basketball.	That's all.
378449624	Gift for son.	No other.
378451054	I enjoy playing multiplayer against family and friends.	I like the story mode, where I get to build my own player.
378451958	It was only a couple bucks.	No.
378455420	I enjoy basketball games and like to play them even more.	N/A.
378457311	To play. It's entertaining.	Friends endorsed it.
378458154	The children wanted it.	They heard a lot of good things about it.
378463431	Like to play basketball.	My kid likes to play it.
378464583	Always buy new edition.	None.
378466216*	I like the gameplay and the graphics.	Don't know.
378466478	Don't know.	Not applicable.
378467201	I played basketball myself and loved playing video games.	Heard good things about it.
378467203	It was only \$5 at a thrift store, and I love basketball.	I knew it could hold some value.
378469640	For my kids.	It was new.
378469678	Fun to play.	Good action.
378472164	Like to play basketball video games, and especially NBA games.	The quality of player that plays on the game.
378480593	It was a Christmas gift and birthday gift for a relative.	It was a gift I knew they wanted.

ID	A1.	A2.
378482166	I love the NBA.	Don't know.
378483911	I liked the advertisements for it and decided to buy it.	None.
378485282	Don't know.	Not applicable.
378486725	I like to stay up-to-date and play each year. I like basketball games.	My brother likes to play them with me.
378488737	They are fun to play, and I know people to play this with.	I buy them every year.
378490119	I think basketball games are pretty fun.	It's fun to run your franchise.
378491291	I bought this because my kids love it. They use it as their exercise gaming video. I also like it because it gives my family an opportunity to play and do something together.	For exercising.
378491490	Love basketball.	Don't know.
378493408	Enjoyable.	I like basketball.
378493914	Basketball.	Action.
378495094	I just like the 2K series.	Friends ask me to buy it.
378496564	Play for fun.	To play with my daughter.
378498909	I love basketball, and NBA 2K is fun.	No other reason.
378499878	My kid wanted it.	Sports games are better than gun video games.
378501341	For fun.	I thought it would be fun to play and build a team in season mode.
378502496	I played the game at a friend's and liked it, so I decided I wanted to have it to be able to play with people.	Thought I would get some use out of it.
378503350	It's fun.	It's interesting.
378508724	To play with my family and friends.	To play.
378509760	I am a fan of basketball games.	I consider myself a good player of these video games, and I like to face good players.
378510485	For my son.	It looked like fun when I played with a friend.
378513424	It was fun.	Don't know.
378513580*	Great career mode, amazing graphics.	It was on sale.
378514509	My son loves it.	N/A.

ID	A1.	A2.
378515624*	I like the game and graphics. I've always been a fan of the game.	It's one my favorite games to buy.
378523882	My grandson is a huge NBA fan and an avid gamer, so I buy them.	Don't know.
378526157	For my son.	Don't know.
378532940	They are fun and competitive to play.	My family wanted it.
378533396	I like the game of basketball and I thought it would be fun to play with others.	I was bored.
378533890	I like the game.	None.
378535698	Don't know.	Not applicable.
378535702	To play online.	To play online with friends.
378544167	Don't know.	Not applicable.
378545739	Loved basketball.	Nope.
378547305	My son loves the NBA and playing video games, and it's a game that we can play together.	Don't know.
378550689^	I enjoy sports games and the ability to play as some of the best NBA players ever in the extra modes on the games.	Cheaper than some other sports games.
378552086	Sports.	Leisure time.
378555962	I love sport games and am a fan of NBA 2K.	Don't know.
378556877	Online gaming.	Play with friends.
378562981	On sale.	To have a basketball game.
378564816	It is one of the most preferred video games for my son.	My son loves the NBA.
378564863	Don't know.	Not applicable.
378566027	Love basketball video games.	Gift.
378567419	Don't know.	Not applicable.
378571637	I like the sport, and the games are fun.	My friends like to play with me.
378572757	Enjoy the sport of basketball.	Everyone in my family enjoys playing.
378578302	To play with my son and nephew.	To spend time with friends.
378581261*	I am a big fan of the series.	The graphics are great, and the gameplay is, too.
378583272	I like basketball.	I thought it was better than any other basketball game on the PS4.

ID	A1.	A2.
378585755	I like to play basketball, and the background music is always great as well.	Don't know.
378586992	I enjoy basketball.	Don't know.
378599943	My boyfriend really likes basketball.	Don't know.
378600755	It's okay.	Don't know.
378602917	I am a big NBA fan.	I like to play as the Lakers.
378603722	Because it's my favorite game to play.	Because I want to see how different each are.
378611770	Friends.	I like the game.
378614863	I like basketball and the games are fun.	Don't know.
378619566	On sale and good reviews.	Don't know.
378627339	My son wanted it.	That's really why.
378629908	I enjoy basketball and the 2K style over the Live style.	More fun than Live.
378637399	My son wanted it.	None.
378641828	I like basketball games.	Don't know.
378653498	Play with friends.	On sale.
378654636	Loved it since the Dreamcast Allen Iverson cover.	I buy every year, no matter what.
378656715	Online playing.	Career mode.
378658504	I love basketball.	None.
378666439*^	I like the realistic way you can play. It's like you are there!	The players and the competition.
378667717	I wanted to play a basketball video game on my PS3, and this game was reasonably priced.	Don't know.
378675332	I thought it would be fun.	Don't know.
378676277	Because it's my favorite sport.	Because it's the game that I play with others.
378690886*+	Realistic player characters.	It's fun.
378693264	Fun gameplay and interesting match ups.	None that I know of.
378694028	My kid wanted it.	That was the only reason.
378701439	I love basketball, and I had heard good things about this game.	I thought I could have fun with my kids with the game.
378702347	My son's birthday.	None.

ID	A1.	A2.
378709111	NBA has become so popular. It was the game to buy.	I like that it is sports-related.
378710085	My son loves the game.	He gets the new game every year.
378712122	At the time, they were the best basketball games out.	I love the NBA.
378723298	To interact online with other players and be competitive, and playing with family to pass time.	For the love of the game of basketball.
378725706	I'm loyal to the franchise. They always bring out good, quality games.	Commercials or celebrities playing it.
378733739*	Love basketball and Madden.	Good graphics.
378735559	To play with my daughter.	I like basketball.
378754512	Fun.	Don't know.
378769248	Because I love basketball.	I buy 2K every year. It's a habit. Plus, I love playing 2K!
378772301	Entertainment.	Don't know.
378775567^	I love the NBA, and it's fun to play as the players.	To have the newest updates and players.
378779712	I enjoy the game.	It's a long time favorite.
378783792	I love the NBA.	I love the NBA.
378792237	They were interesting and fun.	Don't know.
378797697	My career and park.	Don't know.
378801843	I like basketball games.	It was on sale.
378803991	Something fun to play when I'm bored.	Don't know.
378808795	About a whole new level.	Don't know.
378811289	I like the series.	Collection.
378818432	I like basketball sports games more than other types of sports games. I also had played an earlier NBA 2K game and had a good experience with the career mode.	Don't know.
378820852	Finally came out for Nintendo since 13.	None.
378827806	To play with my teenage son, who had played it and liked it.	I like playing video games occasionally.
378835464	I like basketball entirely.	Don't know.
378836303	Don't know.	Not applicable.
378837822	It is a good game.	None.

ID	A1.	A2.
378871939	Try something different.	Don't know.
378873291	Because it's very good.	Because it's very good.
378873840	I wanted to play online and enjoy basketball.	They have been fun in the past.
378896505	I like basketball.	Something to play.
378898499	I love basketball.	A great franchise.
379595872	Don't know.	Not applicable.
379630078	It's a very good game.	Not sure.
379644760	Because it was on sale and it was a promotion.	Don't know.
379682232 <sup>#</sup>	It was there.	Because I like to dunk all over LeBron James.
379712201	Fun to play basketball video game.	No other reason, really.
379774671 <sup>^</sup>	It's my very favorite game to play on my PlayStation.	To play with my favorite player only, my favorite team. It gives me kind of a high.
379776446	For my son.	No other reason.
379816084	My son wanted it for his Switch.	My son had money for it.
379822558 <sup>*</sup>	The graphics, and I like the sport.	Don't know.
379830435 <sup>*</sup>	The graphics and the ability to create my own teams.	I'm a loyal fan.
379838182	I love basketball video games and buy each of them when they are released.	I have so much fun playing these games with my kids.
379855768	For my son.	My son asked for this.
379901908	The NBA 2K series is a series of basketball simulation video games developed and released annually since 1999. The premise of each game in the series is to emulate the sport of basketball, more specifically, the National Basketball Association, and present's improvements over the previous installments.	Don't know.
379914489 <sup>*</sup>	I love the game.	I love the graphics.
379941924	I like to play these type of games.	Don't know.
379954519 <sup>*</sup>	It looked so real, and I rented it with much fanfare.	My husband and kids enjoy playing it along with their cousins.
379956895	I love basketball games.	I love this game.

ID	A1.	A2.
379958061	My son likes the NBA 2K a lot.	Because it is a product of excellent quality, and it satisfies me a lot when I buy it and enjoy it.
379959269	Don't know.	Not applicable.
379975764	I like basketball and wanted the latest and best basketball video game.	It is fun to play, and my friends also like it.
379976464	I'm a fan of the series.	No.
379984485	I hadn't purchased a basketball game in a while and wanted an update.	The price was right.
379984938*	I enjoy the graphics and details put into the game. It has real time stats and updates, and the overall presentation of the game – from the announcers to halftime – is tremendous.	Don't know.
379986535	Because I like Curry and the Warriors.	Because I like basketball.
379988104	Don't know.	Not applicable.
379988447*	Because I like to play against my friends, and it's very realistic.	My son wanted to play, too.
379989332*^	I like playing the game.	The graphics, to keep updated with current players.
379989334	The kids wanted the game.	None.
379991231	I like basketball.	Don't know.
379991614*	I like to play against someone else for the entertainment, and the graphics are great.	Have something to do, to interact with my son.
379991731	Don't know.	Not applicable.
379994470	It is a great game overall.	Don't know.
379996168	My spouse likes basketball.	No other reason.
380003480	Basketball is my favorite sport. I like the way they dribble up and down the court.	Bitch, I done told you.
380003524*	The new dynamics and physics.	The improved graphics.
380008694	I like the game.	Don't know.
380009885	It is one of the most detailed and challenging games.	The teams.
380009914	It's one of my favorite games, and I wanted to update.	Because I wanted to acquire it.
380011459	I am a huge basketball fan.	Don't know.

ID	A1.	A2.
380014827	My son asked for it for a gift.	Don't know.
380014946*^	I like the graphics, the sounds, the players, and it makes it more fun to play.	Fun, graphics, sounds.
380016303	I like basketball.	Don't know.
380017743	It was a gift for my boyfriend.	Don't know.
380018071	Entertainment.	Don't know.
380018948	My child wanted them. We love watching the NBA, love playing basketball.	We have bought a new 2K game every year.
380019215	Best of the best in the case.	Sounds interesting to see if they can get away from the best, in the case of services and other.
380022335	For my sons, who enjoy them.	A Christmas present.
380023318	For my boys to play with each other.	Good price.
380023580	Very good quality.	N/A.
380024568	To play games.	Just to enjoy.
380024574	Lots of action.	Don't know.
380025268*	Fun to play and good graphics.	Offers different levels.
380026757	My husband plays them.	Don't know.
380026906	I needed and like a basketball game.	It looked cool.
380027842	I wanted to play the fun game.	I could afford it.
380029190	It's the best NBA video game choice out there. It is usually a good game and great replay ability, to keep you entertained until the next installment is released.	Don't know.
380029461	I wanted a game with a challenge.	For the price and the good reviews.
380033527	My son plays the game.	I also play sometimes.
380034158	I'm a big fan of the NBA.	I love basketball.
380034246	To play.	Don't know.
380034616*	They're addictive and my friends play them, so I like playing against them.	They're awesome games, lifelike.



ID	A1.	A2.
380041645	The biggest reason I bought it at the time was I got a very good deal on it. Other than that, I like to have a variety of games to play. In general, I love sports as well and try to keep a few sporting games around to play. I also had tried the game with a friend and liked it, so when I saw the deal I decided to buy it.	I like to play sports games. I like that there are different playing modes in the game as well. I don't have to play as a player – I can be a GM, coach, etc.
380050595^	Great players.	Don't know.
380053126	I wanted the newest version, so I can play with friends.	I'm a collector.
380063384	I want to have at least one game from each sport.	I have friends who are fans of sports games.
380065754	Basketball is my favorite sport. I used to play very competitively and can't anymore due to injuries. This is the next best thing!	My friends like to play it with me!
380070188	My son wanted the game.	My nephews also liked to play the game.
380070524	It was being promoted as a new and awesome game to play.	My friends purchased the game first and spoke highly of the game.
380072853	I see an ad and wanna try.	Sports gameplay. I like the same or more. Other games.
380077805	I like the NBA series. It is fun to play.	My son requested this game.
380080291*	Great graphics and unique features.	Nonstop action and very competitive.
380080528	Cool game.	Don't know.
380081443	The main reason I bought the game was because I love basketball.	There were not any other reasons.
380083288	My dad.	My dad.
380089362	Stat keeper.	Fun.
380092065	NBA 2K12, NBA 2K13, NBA 2K15, NBA 2K17.	Entertaining, fun.
380099521	I think that the 2K franchises are the best sports games.	I like playing NBA 2K online.
380102941	I like basketball and videogames, why not.	Don't know.
380112457	To play a basketball video game.	Don't know.
380112471	Because I'm a huge fan of the game, and I enjoy competition.	Because I had played it previously over at a friend's house.

ID	A1.	A2.
380112479	I love basketball.	I'm a fan of Cleveland, Ohio sports teams.
380113362	It is one of my fiancé's favorite games to play.	They are some of the best-rated video games on the market.
380117205	For my sons.	To play.
380117900	It is popular.	Don't know.
380122285	Fun game.	On sale.
380127517	It's the only NBA game available.	I like to play basketball. It's different. It's fun. I like the Dynasty mode.
380135736	Don't know.	Not applicable.
380146006	I love the game of NBA.	To play online.
380151019	Don't know.	Not applicable.
380162889	Wanted to try the title and didn't have a basketball game.	Don't know.
380163106	Because I am a basketball fan, and my husband and kids love to play the game.	Don't know.
380163912	My son.	He wanted it.
380163921*	Most realistic.	Don't know.
380165762	I enjoy the video game franchise. I love basketball as well.	None.
380170718*+	Because I like how real and how good the game plays, and they use real updated NBA players.	It looks great.
380172048	My son wanted.	None.
380173389	I like the franchise.	2K is one of the best basketball games.
380180237	My son asked for it for Christmas.	Don't know.
380180308	I am a fan of the NBA.	I like very much to play sports video games.
380185784*	The graphics.	Cool.
380185942	Don't know.	Not applicable.
380187856*	I like the gameplay and playing against other people.	I like the series and the graphics.
380189220	I enjoy basketball and enjoy basketball gaming.	Don't know.
380192028	To enjoy the game.	To play basketball.
380195194	It is a great game.	Interested.
380197267^	To play with my friends and beef up my players.	None.

ID	A1.	A2.
380197943	Just casual fun.	Free time.
380201783	I like playing basketball.	My friends played, and I wanted to compete with them.
380201884	I like sports video games and it was on sale. The reviews on it were good as well.	Don't know.
380210330	My kids.	They love it.
380211111	Don't know.	Not applicable.
380217174	Fun, best NBA game for console.	The most popular one.
380220486	It is very entertaining.	Don't know.
380220885*	I like the game control, where you have a lot of control over the players, and the pace of the game is very realistic, and a lot of fun.	The graphics are good, and I like how the game keeps track of the stats.
380221663	It's awesome.	Great to play online.
380223368*	I like basketball a lot.	Its graphics are great.
380225574	For my son.	A gift.
380225741	My brother enjoys sports-related games.	My brother enjoys playing NBA games, and bought it for his b-day.
380227778	It was cheap.	Don't know.
380233232	I bought it for my son.	No other reasons.
380235738	I'm an NBA fan.	This game makes me feel closer to the NBA.
380236496	Don't know.	Not applicable.
380237122	I Like the game itself.	Main player, which I like.
380237288	NAME?	I owned a gaming console, and the game was on discount at the time.
380238845	For my child.	She wanted it.
380241024	Don't know.	Not applicable.
380246428	To play an NBA game, lol.	Don't know.
380247577	Cool game.	No.
380247701	I wanted to play with my brother.	I enjoy the NBA.
380251218	I like it.	None.
380255737	I love it.	It's very good.
380270701*	I like to play the game. The realism of the graphics.	Both for me and my sons.
380283841	I like playing basketball video games.	I like the game of basketball.
380288515	My son.	My son.

ID	A1.	A2.
380292572	It looked cool to play.	I like the NBA.
380295860	I like the sport.	Don't know.
380297483	For my brother.	Don't know.
380300714	Don't know.	Not applicable.
380303336	To play basketball.	Don't know.
380303770	Only good basketball game.	Don't know.
380305304	The MyGM and MyLeague mode.	I like the depth of the game.
380309729	A gift for my son's birthday.	That is what he wanted.
380315176	I'm an NBA fan and I like to play it.	It's fun to play with friends.
380319211	My son wanted it so badly.	Don't know.
380324364	Why, it is an exciting game.	Nice game.
380326960	Because all my friends were playing it, and I wanted to play online with them.	It was cheap.
380328871	I love basketball.	I love the challenge.
380332153	Because I love basketball.	I love playing basketball games.
380332490	I wanted to keep up with the latest teams and stats.	It's fun to play a new iteration every year.
380338164	I love the gameplay. It is fun.	I always buy it for competition reasons.
380341627*^	To simulate reality using my favorite players and to add myself to the storyline.	They are fun.
380342775	My youngest son wanted the video game.	It was a reward for doing well in school.
380344502*	Fan of the sport and franchise.	The graphics.
380348174	It was primarily when I had company over, so we can play against each other.	Don't know.
380350764	Play with my friends.	N/A.
380367402	For my kids.	For my kids.
380388681	It's one of my favorite games to play. Especially since basketball is my favorite sport.	It's a great game to play with friends.
380400679	My son asked for it, something he enjoys.	Don't know.
380403285	My son wanted it.	Don't know.
380410311	It's the best basketball video game available, and I love basketball.	Don't know.

ID	A1.	A2.
380414457	It is the best in town.	Best game made for kids and adults for any age.
380416174	My son.	Fun.
380428550	I love basketball games.	Don't know.
380434579	I had a positive experience with the game, and I wanted to see what would be different/better this time around, and I love sports games, so I know I would like this one.	Don't know.
380436307	??	??
380442588	My son wanted it.	Don't know.
380455866*	The graphics, gameplay, fun with friends.	None.
380477218	Don't know.	Not applicable.
380493537	I am a fan of the 2K brand, period, and I wanted to continue to support it.	I am excited to see their upcoming projects in the future.
380497391	I like basketball, like the NBA.	Don't know.
380514898	Don't know.	Not applicable.
380523830	I love the EA brand, plus basketball.	My son.
380527011*	Because I scan my face and I can live the real experience, because I have a PlayStation 4 and an Xbox One.	For having the special editions. The cover of Kobe Bryant is the Legend Edition.
380528473	I like.	It is fun.
380534090	It looked fun. Wanted a basketball game.	What seemed best for Xbox One.
380555173	I love basketball.	I heard it was fun.
380559751	Don't know.	Not applicable.
380561015	For my son.	None.
380567068	I like basketball.	My friends played them.
380571486	I like basketball.	It was on sale.
380572369	Because it is extremely exciting.	I like sports.
380588255	They were on special.	I like basketball games.
380595633	A gift.	Great game.
380599926*^	Basically, because of the great graphics and playability, to be able to play games with current NBA players and teams through artificial intelligence.	The great overall visuals.

ID	A1.	A2.
380602459	Just wanted something different to try.	A good game to play with friends.
380608593*	The game looked fun and the graphics looked realistic.	I needed something fun to do in my free time.
380610645	Because I love the Phoenix Suns.	I love NBA basketball, and got a workout playing Madden 16.
380610772	Because I like playing NBA 2K video games.	Don't know.
380611405	Trailers I had seen; online reviews; and general social media hype.	No.
380618195	Play game with my friends.	I like basketball.
380625283*	The realism of the game.	The graphic.
380625814*+	I bought it as a gift.	I like the real-life animated characters, and basketball overall.
380633455	It's one of my favorite games to play.	It's popular, and all my friends play it.
380633541	Kids like it.	That is all.
380634579	For my teenage sons.	I would rather see them play video games that involve sports, rather than most of the other games out right now.
380636331	I liked the earlier versions.	On sale.
380636494	I like the sport.	Don't know.
380641697	New release.	Best basketball video game on the market.
380651707	It was for my son, who was 12 at the time.	None.
380652396	They're my favorites.	I find them very interesting.
380656620	Don't know.	Not applicable.
380663163	I enjoy hoops.	No other.
380664354	Children requested it.	None.
380666994	I was interested in the career mode.	I enjoy basketball, I like sports games, and I like managing rosters/owner modes.
380670992	I like the game.	My son wanted them.
380673159	My son wanted it and loves basketball.	No other reason.
380675242	My eight-year-old son enjoys playing the games. I bought it for him to play.	He enjoys the game.
380675452	It's very excellent.	It's very good.

ID	A1.	A2.
380676076	I had not purchased a basketball game in a few years.	Friends said that was a good game.
380687803^	I like the players.	Don't know.
380691999	Don't know.	Not applicable.
380692399	I like basketball.	None.
380693395	I like the NBA 2K series and I like basketball. Best features of all NBA games as well.	I like making my own players and playing online.
380696882	Play with friends and enjoy basketball.	Friend had it, too.
380704146	It looked good.	It got good reviews?
380706664	B-ball, yo.	The ladies like it.
380709177	I'm an NBA fan, so it's fun for me to get in on the action.	I heard positive things about them.
380709967	Don't know.	Not applicable.
380728188	Don't know.	Not applicable.
380729779	My son wanted it.	Don't know.
380735314	The gameplay.	I like the series and sport.
380737094	Fun to play.	Don't know.
380743415*	The best basketball game available.	Great gameplay, superior graphics.
380743494#	Newer than the game I used to have.	LeBron James playing for the Cavs.
380748797	To help me relax.	Don't know.
380749438	Kids.	Husband.
380749474	For my son.	Don't know.
380752490	My brother and boyfriend play. It was a gift to them.	Don't know.
380752536	It's fun to play and the competition.	It's one of the best video simulation basketball games out there.
380752633	For my husband and son.	For them to play it.
380753356*	I love the NBA.	Because of the graphics of the game.
380755725	Enjoyment, strategy, escape.	I just enjoy them.
380756213	For my kids.	Don't know.
380759459	I like the action of basketball.	Don't know.
380759556	Interesting.	Catchy.
380760030	For the love of the game.	No, I love the game of basketball.
380762895	My friend loves the NBA, and I wanted to get a game he would play with me.	I needed a basketball game to go with my other collection of sports games.

ID	A1.	A2.
380763185	To kill time.	I like basketball.
380763215	For my brother.	We like basketball.
380763363	Wanted the newest game.	Don't know.
380763473*^	It's a favorite in the franchise, and always has realistic gameplay.	I like playing and controlling my favorite NBA players.
380764954	I wanted basketball on the Switch.	Don't know.
380767168	I purchased it for my son because he likes playing NBA 2K, and he is a fan of it.	It's my son's favorite game.
380769079	Don't know.	Not applicable.
380772127	My partner wanted it.	It was a new release.
380774833	Could play with my son.	So my son could play with friends.
380775735	My sons wanted it.	It was age-appropriate for my sons.
380776133	Needed a b-ball game to play.	It's the only basketball game worth it.
380776393	I love playing basketball, video games.	Same.
380777572	I love to play basketball games.	N/A.
380777977	For my kids.	None.
380778952	My son's gift.	Friends to play.
380779085	I like basketball games and it's fun.	It looks great.
380779562	Because I like all the NBA games from the 2K series.	No other reasons.
380780335	I was just trying it out, trying to see if I would enjoy playing a basketball game.	None.
380781580	My son asked for it.	None.
380782023*+	The real-life effect of the players and the competition.	The players and the competition.
380783507	It was a gift my son wanted.	It was a sports game.
380787871*	Why, the images look almost real, and the game is very good. I recommend it and buy it.	I like my children and I love basketball.
380788596*^	I like to play as my favorite players, and my friends are into this game too.	The graphics are getting better each year.
380795716	My 2 teenage sons and my husband.	So my two teenagers and husband can play the game.
380798684	I like basketball and sports games.	To play with my kids.
380799530	Sports entertainment.	Don't know.
380799609	Don't know.	Not applicable.



ID	A1.	A2.
380800181	I like basketball.	Don't know.
380800939	I felt like NBA Live from EA was getting worse and wanted to try something new.	Good reviews and multiplayer functionality.
380801048	Don't know.	Not applicable.
380801316	For my son.	None.
380801411	N/A.	N/A.
380804050	I like this brand.	Don't know.
380804446	I had never played it before and saw that it was on sale, so I decided to try it out.	So that guests would have more options besides my favorite games.
380805325	Being an NBA star.	The playground.
380806190	I like basketball.	Passing time.
380808732	The best basketball sim out.	Don't know.
380811152	I like the experience of basketball.	The price.
380813149	Don't know.	Not applicable.
380813406	It looked fun.	Don't know.
380815169	My son wanted it for his birthday.	No.
380817587	I enjoy the series.	Don't know.
380818643	I love basketball. It's the best basketball game on the market.	Don't know.
380818729	I felt like playing basketball.	None.
380819708	I enjoy basketball.	Fun game.
380820631	My son wanted it. It's good, clean fun. No cursing.	None.
380822750	It is fun.	Got it on sale.
380823960	I love basketball.	Great game. Big fan.
380824442	My friends.	Don't know.
380824705	I LOVE basketball, and the 2K games are better than NBA Live from EA. Also, they are fun to play. I like creating a character and advancing their career or playing with friends.	No other reasons.
380825942	Wanted it.	I liked it.
380826353	Kids wanted it.	Don't know.
380830208	Never played an NBA video game before and wanted to try.	Don't know.
380830448	It's a good game and is for everyone.	Because it's good.

ID	A1.	A2.
380833702	I got it for my son.	My son likes basketball.
380836014	I heard the single player story mode was good.	That year, I tried to play every major sports game.
380837803	Don't know.	Not applicable.
380845749	Basketball is my favorite sport.	I've played them before and like them.
380846565	I'm an NBA fan that likes playing video games.	It's the best basketball game on the market.
380846639	A gift.	Don't know.
380846744	My grandsons asked for it.	None.
380853046*	Our entire family is devoted to the NBA, especially the teams that we have here on the West Coast and those in our own region.	It's a family thing, a correlation between the real game and the ones we play at home.
380855141	I like basketball, and I've played 2K games since I was a kid.	Tradition.
380856781	Because it's a really good game and I love it.	I love basketball.
380868965	My son loves it.	My son is an NBA fan.
380871089*	This is the smoothest 2K game yet. 2K18 is more than just a roster update, like many annual sports games are. MyGM is revamped. I haven't played Career yet, but I've heard good things. But the actual gameplay is significantly improved. 2K18 is worth it, IMO.	The graphics, and the game is great.
380872495	Don't know.	Not applicable.
380875005	Don't know.	Not applicable.
380875187	It's the best basketball game made.	At the time I bought it, it was the only basketball game.
380885133	To play the MyLeague mode with new rosters.	Don't know.
380887903	Great action.	Don't know.
380891280	Because the equipment is excellent and great.	Because the equipment is excellent and great. It is the number 1 team of the USA.
380893679	I like basketball, and like the 2K video game series a lot.	It's fun to play with friends.
380901654	Don't know.	Not applicable.

ID	A1.	A2.
380904458	It's the best NBA game on the market, and I hadn't bought a new version since 2K09.	Well, I asked for it for Christmas and my wife got it for me.
380907194	For my son.	He likes video games.
380908605*	Online play.	Good graphics.
380908982*	I love the game in general. Lovely visuals and graphics matching the real event.	High action sport.
380909766	I buy it every year for my son for either Christmas or his birthday.	No other reason.
380910852	My son wanted it.	My son wanted it.
380921859*	Great in-depth realistic games that are balanced. Also, the story and Career Modes are what got me into NBA 2K.	Basketball fan.
380923610	Well, because I love the NBA.	I love the sports.
380925698^	Interested in the NBA and its players.	A leader in NBA simulation games.
380926022	I'm a huge sports fan, and I wanted a game to play with my boyfriend.	It was on sale.
380930813	Because it's a badass.	Because it's freaking NBA 2K.
380932735	My son asked for it.	It was on sale.
380933461	For my son.	Don't know.
380933724	Because I just got back into gaming, and I've always liked b-ball games, so I wanted the latest and greatest.	The Thunder.
380934346	I love playing basketball games.	It is really fun and addicting and cheap.
380941404	I love the sportsmanship.	I like to play ball.
380944291	Don't know.	Not applicable.
380948918	My children requested it, and I love the sport.	None.
380950444	It is fun to play.	None.
380951702	MyCareer mode.	My park.
380955089	Great way to play with family and friends.	Don't know.
380960527*	No other basketball game as realistic as 2K.	I liked Madden Football, so I wanted to try basketball.
380960912	For my 14-year-old son.	None.
380960917	A birthday gift for my son.	A birthday gift.
380961760*	The great game action.	The graphics.

ID	A1.	A2.
380962426	I love playing basketball, watching it and also playing it in video games.	To play the game. To keep myself busy when I am bored and there is nothing else to do.
380963572	I want to play the MyCareer mode.	Don't know.
380967159	Wanted to play my favorite team, the Lakers.	I wanted to have fun.
380967663	My son is into basketball and basketball video games.	It is a popular game his friends have, too.
380968473*	It's fun to play.	Great graphics.
380973594	I love basketball, used to play back in high school, and it looked like fun.	My friend had the game and said it was good, so I thought I'd try it out.
380974556*^	I'm a fan of the NBA, and this game has the best graphics in sports games.	The ability to customize teams and players.
380994991*	The graphics.	I like the game.
380995071	They were on sale, so I got them at a cheaper discounted price.	I wasn't a fan of the NBA Live franchise.
380995775	I like basketball.	None.
380997530	It is fun.	It's challenging.
381006284	It's was cheap and easy to play.	Don't know.
381016535*	I like the game cam of the NBA, good graphics.	Good price, good graphics in a good simulation game.
381017586	To play games with my friends and to play simulated basketball as my favorite pro sports team.	Don't know.

## **Appendix H**

### **Which NBA Players' Depiction Was a Reason for Buying an NBA 2K Video Game and What Features or Aspects of Their Appearance Were Important to Depict<sup>1,2</sup> (Question C2/C4)**

*Base: Respondents Who Said the Depiction or Appearance of a Particular NBA Player Was a Reason for Buying an NBA 2K Video Game in C1*

*C2. Which NBA player or players' depiction was a reason why you bought an NBA 2K video game?*

*C3. (IF NOT DON'T KNOW) In the NBA 2K video game(s) you bought, were there any particular features or aspects you thought were important to depict of these NBA players' appearance: [ANSWER FROM C2]?*

*C4. (IF YES) What features or aspects were important to depict of these NBA players appearance: [ANSWER FROM C2]?*

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<sup>1</sup> Note: C4 was "Not applicable" if the respondent said "Don't Know" to Question C2 or the respondent did not say "Yes" when asked Question C3.

<sup>2</sup> An asterisk (\*) indicates that the survey respondent mentioned LeBron James. None of the survey respondents mentioned Kenyon Martin or Eric Bledsoe.

ID	C2.	C4.
377842744*	LeBron James.	Not applicable.
378296318	Steph Curry.	The resemblance to him in real life.
378316172	Russel Westbrook.	Not applicable.
378329098	Don't know.	Not applicable.
378355638	Don't know.	Not applicable.
378360631	Don't know.	Not applicable.
378377649	Dwayne Wade and The Miami Heat.	They were champions a few times, and Miami is my hometown.
378412800	Kyrie Irving.	Not applicable.
378426768*	LeBron James.	Face, beard, and body build.
378443172	It's okay, but cool.	It's okay, but cool.
378495094	Irving.	Not applicable.
378498909	Don't know.	Not applicable.
378503350	Don't know.	Not applicable.
378572757	Kobe Bryant courtside.	His plays and the challenges of the game.
378578302	Michael Curry.	His face features.
378586992*	King James.	Not applicable.
378629908	N/A.	Not applicable.
378693264	It's fun to see the graphics enhance over the years.	None, other than what I previously stated.
378709111*	LeBron James.	His likeness. His moves on the court. The strength shown.
378754512	Don't know.	Not applicable.
378779712*	LeBron James.	I enjoy basketball.
378837822*	LeBron James.	Not applicable.
379958061*	LeBron James. I love this player and how he is represented in the NBA 2K games.	His movements at the moment of throwing the ball to score, and his blocks to Curry can also be more representative, but to the reality – I would love to see that.
379989332	All of them.	Not applicable.
379989334	Just the players in general.	Not applicable.
379991614*	LeBron James.	Not applicable.
380003480	Kareem Abdul-Jabbar.	Big dick.
380003524	Kobe Bryant was awesome.	The closeness to the real Kobe.
380009885*	LeBron James and James Harden.	Not applicable.

ID	C2.	C4.
380029190	Michael Jordan.	Not applicable.
380034158	Don't know.	Not applicable.
380102941*	LeBron James.	Not applicable.
380146006	Kevin Durant.	Not applicable.
380170718*	LeBron James.	The player's movement.
380187856	There was not just one, but the overall depictions of the players.	Not applicable.
380197267	Don't know.	Not applicable.
380217174*	Steph Curry and LeBron.	Their facial features and actions.
380220885	Blake Griffin, Stephen Curry, James Harden.	Their appearance is very realistic.
380223368*	LeBron James.	Not applicable.
380225574	Kobe.	Facial.
380235738	None specific.	Not applicable.
380292572	The Indiana Pacers.	Don't know.
380388681*	LeBron James, Stephen Curry, Michael Jordan.	Their signature movements and abilities in the game.
380523830*	LeBron James.	Not applicable.
380555173	Jordan.	His sweet hops.
380561015	Don't know.	Not applicable.
380599926*	LeBron James, Charles Oakley, Kevin Durant, and Steve Curry.	Not applicable.
380611405	Don't know.	Not applicable.
380641697*	LeBron James.	The shoes.
380675242*	My son likes LeBron James and Steph Curry.	Not applicable.
380692399	Gordon Hayward.	The hair.
380706664	Shaq.	Not applicable.
380709177	Steph Curry.	Not applicable.
380743494*	LeBron James.	The face and build.
380752490	Not specified.	Not applicable.
380799609	Don't know.	Not applicable.
380806190	Jamison.	Not applicable.
380818643	Kevin Durant.	Not applicable.
380819708	Michael Jordan.	The face.

ID	C2.	C4.
380820631	My son thought they all looked pretty great.	He liked the different hair and the different faces. Their faces didn't all look the same with just different hair.
380824705*	LeBron, Kevin Durant, Paul George, James Harden, the list goes on!	Accurate facial features and figures. I don't like the wooden look, so dynamic facial features like the ones they have are very appealing.
380856781	Don't know.	Not applicable.
380891280*	LeBron James.	The style of the player.
380921859	Steph Curry.	Not applicable.
380934346	Fun stuff.	Neat stuff.
380941404	Boston Celtics and an old friend of mine. Me and him used to play all day.	The style motion and tranquility of the game.
380961760	The impression of sound.	The better look.
380967663	Antetokounmpo.	Not applicable.
380968473	All of them.	It's realistic.
380974556	My favorite teams.	Not applicable.